

Attachment 2

Original Ordinance With Proposed Changes

"SEC. 49-1. DEFINITIONS.

In this chapter:

(1) ACT means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

(2) AMENABLE TO TREATMENT means that a substance:

(A) does not discharge or interfere with the operations of the wastewater system;

(B) is acceptable for stream discharge and normal sludge disposal methods used by the city; and

(C) does not pose a health or safety threat to city employees or contractors performing work in the wastewater system.

(3) APPLICANT means a person who makes application to receive a service from the department.

(4) APPROVAL AUTHORITY means the Director of the Texas Commission on Environmental Quality (TCEQ).

(5) AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER means:

(A) if the industrial user is a corporation,

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

(ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions governing the operation of the regulated facility (Examples of management decisions or activities include, but are not limited to, having the explicit or implicit duty to make major capital investment recommendations, and initiate and direct these comprehensive measures to assure long-term compliance with environmental laws and regulations; having the authority to establish a system to gather complete and accurate information for individual wastewater discharge permit requirements; and having the authority to sign documents and bind the corporation in accordance with corporate procedures.);

(B) if the industrial user is a partnership or sole proprietorship, a general partner or proprietor, respectively;

(C) if the industrial user is the federal, state, or local government, the director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility governed by these regulations, or the director's or official's designee; or

(D) any individual designated to act as the authorized representative by an individual described in Paragraphs (5)(A) through (5)(C) if the authorization is in writing, specifies the individual or the position that is responsible for the overall operation of the facility from which the discharge originates (or position that has the overall responsibility for environmental matters for the entity), and is submitted to the city.

(6) AUTOMATIC IRRIGATION SYSTEM means an irrigation system that will automatically cycle water using landscape sprinklers according to a preset program, whether used on a designated timer or through manual operation.

(7) BACKFLOW PREVENTION DEVICE means a device, including but not limited to reduced pressure devices, double check valves and vacuum breakers, approved by the director and used to prevent water of unknown quality in private plumbing facilities from flowing back into the water system.

(8) BEST MANAGEMENT PRACTICES (BMPs) means a schedule of activities, maintenance procedures, and other management practices that prevent the unlawful discharge of pollutants, listed in Section 49-43 (a) and (b), into the wastewater system. BMPs include treatment requirements, operating procedures, and practices that control plant site runoff, spillage or leaks of chemicals, sludge or waste disposal, and drainage from raw material storage.

(9) BOD (BIOCHEMICAL OXYGEN DEMAND) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/L).

(10) BUILDING DRAIN means that part of the lowest horizontal piping of a drainage system that receives wastewater discharge from drainage pipes within a building, and conveys it to the building lateral that begins two feet outside the inner face of the building wall or foundation.

(11) BUILDING LATERAL means the conduit or pipe extending from the building drain to the wastewater service line at the property line or other lawful place of disposal.

(12) BUILDING WATER LINE means the water line on private premises that acts as the main water service to the premises.

(13) BYPASS means the intentional diversion of industrial waste from any portion of an industrial user's treatment facility.

(14) CATEGORICAL INDUSTRIAL USER means an industrial user subject to a categorical pretreatment standard or categorical standard as defined in Title 40, Code of Federal Regulations, Part 403.3(v)(1)(i), as amended.

(15) CITY means the city of Dallas, Texas.

(16) CITY ATTORNEY means the city attorney of the city, or the city attorney's authorized assistants.

(17) CITY COUNCIL means the governing body of the city.

(18) CITY ENVIRONMENTAL HEALTH OFFICER means the environmental health officer of the city appointed by the city manager pursuant to Section 19-1(b) of this code, or an authorized representative.

(19) CITY MANAGER means the city manager of the city, or the city manager's authorized assistants.

(20) CITY PLAN COMMISSION means the city plan and zoning commission of the city. The city plan commission is the body authorized to give final approval to plats of property within the city.

(21) CITY RESERVOIR means Lake Ray Hubbard, White Rock Lake, Bachman Lake, and that portion of Joe Pool Lake located within the territorial jurisdiction of the city.

(22) CITY SECRETARY means the city secretary of the city, or the city secretary's authorized assistants.

(23) CLOSED SPRINKLER SYSTEM means a fire protection system with automatic water flow sprinklers from which no water may be taken manually except from the test cock.

(24) COD (CHEMICAL OXYGEN DEMAND) means the measure of oxygen consuming capacity, expressed in mg/L. The term is expressed as the amount of oxygen consumed from a chemical oxidant in a specific test. The term does not differentiate between stable and unstable organic matter and does not necessarily correlate with biochemical oxygen demand.

(25) COMPOSITE SAMPLES means samples collected during a period of time exceeding 15 minutes and combined into one sample.

(26) CONTROL AUTHORITY means the city of Dallas.

(27) CORNER LOT means a lot that abuts upon not more than one pair of intersecting public streets within a larger platted subdivision.

(28) **CROSS CONNECTION** means any physical connection or arrangement of pipes or devices between two otherwise separate water supply systems, one of which contains potable water and the other water of unknown or questionable quality, whereby water may flow from one system to the other, the direction of flow depending upon pressure differential between the two systems.

(29) **CUSTOMER** means a person who:

(A) is the customer of record;

(B) has made application for a service, and the service has been provided or made available by the department at the location specified in the application pending final approval of the application; or

(C) actually uses, receives, or benefits from a service, even though no account for service may exist or no application for service may have been made in that person's name.

(30) **CUSTOMER OF RECORD** means a person who has an account in that person's name with the department for a service, based upon an application made with and approved by the director.

(31) **DAILY MAXIMUM LIMIT** means the maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(32) **DEPARTMENT** means the water utilities department of the city, except that for purposes of administering, implementing, and enforcing provisions of this chapter relating to the construction of public infrastructure improvements by private developers, "department" means the department of sustainable development and construction.

(33) **DESIGNATED OUTDOOR WATER USE DAYS** means Sundays and Thursdays for a customer with a street address ending in an even number (0, 2, 4, 6, or 8) or with no street address number, and Saturdays and Wednesdays for a customer with a street address ending in an odd number (1, 3, 5, 7, or 9). An apartment complex, office building complex, or other property containing multiple street addresses must use the lowest street address number to determine the designated outdoor water use days for the property.

(34) **DEVELOPER** means:

(A) the owner or agent of the owner platting, replatting, or otherwise developing lots or tracts of property for further sale, lease, development, or redevelopment for residential, commercial, or industrial uses; or

(B) a person who does not otherwise qualify as an individual owner under this chapter.

(35) DIRECTOR means the director of the department designated to implement, administer, or enforce a particular provision of this chapter, or the director's authorized assistants and representatives.

(36) EPA means the United States Environmental Protection Agency or, where appropriate, the regional administrator or other duly authorized official of the agency.

(37) EVALUATED COST means the cost of a water or wastewater main, established by unit values for the size of main and appurtenances, as prescribed in Section 49-18.11.

(38) FIRE PROTECTION SYSTEM means any configuration of pipes connected to a sprinkler system or other fire protection device on private premises that, when connected to the water system, is used to extinguish fires.

(39) FOOD SERVICE ESTABLISHMENT means any industrial user engaged primarily or incidentally in the preparation of food for human or animal consumption, except that the term does not include any user discharging domestic wastewater from premises used exclusively for residential purposes. The term includes but is not limited to restaurants, motels, hotels, cafeterias, hospitals, schools, bars, delicatessens, meat processing operations, bakeries, and similar operations.

(40) FOUR DAY AVERAGE LIMIT means the average value from four consecutive sampling days.

(41) GARBAGE means animal and vegetable waste and residue from the preparation, cooking, and dispensing of food and from the handling, storage, and sale of food products and produce.

(42) GENERAL SERVICE means service to premises that are not residential service premises.

(43) GOVERNMENTAL ENTITY means the United States, the State of Texas, any county, any municipal corporation, town, or village other than the city, any school, college, or hospital district, any district or authority created and existing under Article XVI, Section 59 or Article III, Section 52 of the Texas Constitution, any other entity considered a political subdivision of the State of Texas under state law, and any lawfully created and existing agencies of these governmental entities.

(44) GRAB SAMPLE means a sample taken during a period of 15 minutes or less.

(45) GREASE means oils, fats, cellulose, starch, proteins, wax, or other types of grease, oil, or fat regardless of origin and whether or not emulsified.

(46) GREASE TRAP/INTERCEPTOR means a device that:

(A) is designed to use differences in specific gravities to separate and retain light density liquids, waterborne fats, oils, and greases prior to the wastewater entering the wastewater system; and

(B) serves to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap/interceptor and entering the wastewater system.

(47) HOSE-END SPRINKLER means a device through which water flows from a hose to a sprinkler to water any lawn or landscape.

(48) INDIRECT DISCHARGE or DISCHARGE means the introduction of pollutants into the wastewater system from any nondomestic source.

(49) INDIVIDUAL OWNER means:

(A) an owner requesting extension of an existing water or wastewater main to property that is or will be used in the operation of the owner's own residence or in the operation of a business not requiring larger than a one-inch water service connection, which property will not be further sold or leased in connection with its intended function; or

(B) a governmental entity requesting the construction or extension of a water or wastewater main to serve property the entity owns or leases for its own use, regardless of the size of service connection utilized, except that this term does not include a governmental entity that requires, among other things, the construction or extension of an off-site water or wastewater main in order to serve its proposed land use or development.

(50) INDUSTRIAL SURCHARGE means the additional charge made to a person who discharges into the wastewater system industrial waste that is amenable to treatment by the wastewater system but that exceeds the strength of normal wastewater.

(51) INDUSTRIAL USER means a source of indirect discharge or the nondomestic source of pollutants into the wastewater system.

(52) INDUSTRIAL WASTE means wastewater or other water-borne solids, liquids, grease, sand, or gaseous substances resulting from an industrial, manufacturing, or food processing operation, from the operation of a food service establishment, from the development of a natural resource, or from any other nondomestic source, or any mixture of these substances with water or normal domestic wastewater.

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

(54) INTERFERENCE means a discharge that, alone or in conjunction with a discharge or discharges from other sources, both:

(A) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use, or disposal; and

(B) therefore 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) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, as amended; the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act [RCRA], and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA, as amended), as amended; the Clean Air Act, as amended; the Toxic Substances Control Act, as amended; and the Marine Protection, Research and Sanctuaries Act, as amended.

(55) INTERRUPTIBLE SERVICE means the supply of untreated water provided by contract specifically stating that the supply may be totally discontinued for indefinite periods of time due to the need to conserve or have the untreated water available for municipal use.

(56) MAYOR means the mayor of the city.

(57) MGD means million gallons per day.

(58) MGL (MILLIGRAMS PER LITER) (mg/L) is a weight per volume concentration; the milligram-per-liter value multiplied by the factor 8.34 is equivalent to pounds of constituent per million gallons of water.

(59) MONTHLY AVERAGE LIMIT means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(60) NATIONAL CATEGORICAL PRETREATMENT STANDARDS means the national pretreatment standards promulgated by the EPA, pursuant to Sections 307(b) and (c) of the Act, imposed upon existing or new industrial users in specific industrial subcategories as specified in Title 40, Code of Federal Regulations, Parts 405 through 471, as amended.

(61) NATIONAL PRETREATMENT STANDARDS means any pretreatment regulations containing pollutant discharge limits that have been established or will be established for industrial users by the EPA, including but not limited to prohibitive discharge limits established pursuant to Title 40, Code of Federal Regulations, Part 403.5, as amended.

(62) NEW SOURCE means 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 Section 307(c) of the Act, provided that all of the following apply:

(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. If the construction only alters, replaces, or adds to existing process or production equipment, no new source is created.

(C) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. To determine whether the production or wastewater generating processes are substantially independent, 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, must be considered. If the construction only alters, replaces, or adds to existing process or production equipment, no new source is created. For purposes of this definition, construction of a new source has commenced if the owner or operator has:

(i) begun, as part of a continuous onsite construction program, any placement, assembly, or installation of facilities or equipment or significant site preparation work, including the clearing or excavation of the property, or the removal of existing buildings, structures, or facilities necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) entered into a binding contractual obligation for the purchase of facilities or equipment that are intended to be used in its operation within a reasonable time. An option to purchase, a contract that can be terminated or modified without substantial loss, or a contract for feasibility, engineering, and design studies does not constitute a contractual obligation.

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

(64) NORMAL WASTEWATER means wastewater of the city for which the average concentration of total suspended solids and five-day BOD is established at and does not exceed 250 mg/L.

(65) NORMAL DOMESTIC WASTEWATER means wastewater normally discharged from the commodes or sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories and institutions, free from storm or ground water and industrial waste.

(66) OBSTRUCT means to:

(A) make passage impossible or unreasonably inconvenient or hazardous; or

(B) interfere or cause interference with a specific activity in order to prevent the activity from starting, continuing, or concluding.

(67) OFF-SITE EXTENSION means a water or wastewater main extension lying totally outside of the tract of land to be platted, replatted, developed, or redeveloped, except that this term does not include a water or wastewater main extension directly adjacent to or fronting on, and intended to serve or capable of serving only, the tract of land to be platted, replatted, developed, or redeveloped.

(68) ON-SITE EXTENSION means a water or wastewater main extension that:

(A) lies totally within a tract of land to be platted, replatted, developed, or redeveloped; or

(B) lies directly adjacent to or fronting on the tract of land to be platted, replatted, developed, or redeveloped and is intended to serve or is capable of serving only that tract.

(69) OVERSIZE COST means the difference between the evaluated cost of a water or wastewater main as built and the evaluated cost of the size of main determined to be the minimum size required to serve the subdivision. The minimum size used to determine oversize cost must never be less than the standard size water and wastewater mains as defined in this section.

(70) OVERSIZE MAIN means a main that exceeds the minimum size of main necessary to serve a particular subdivision, as determined by the director, in order to allow the main to serve other property, as well as the subdivision.

(71) OWNER means the legal fee title holder of record of property.

(72) PASS THROUGH means a discharge that exits the POTW into waters of the United States in quantities or concentrations that, 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.

(73) PAYMENT DEVICE means any check, item, paper or electronic payment, or other payment device used as a medium for payment.

(74) PERMITTEE means a person granted a permit under this chapter.

(75) PERSON means an individual, private or public corporation, partnership, association, limited liability company, governmental entity, firm, industry, or other entity.

(76) pH means the logarithm (base 10) of the reciprocal of the hydrogen ion concentration of a solution.

(77) POLLUTANT means any of the following:

- (A) Dredged spoil.
- (B) Solid waste.
- (C) Incinerator residue.
- (D) Filter backwash.
- (E) Sewage and sewage sludge.
- (F) Garbage.
- (G) Munitions.
- (H) Medical wastes.
- (I) Chemical wastes.
- (J) Biological or radioactive materials.
- (K) Heat.
- (L) Wrecked or discarded equipment.
- (M) Rock, sand, or cellar dirt.
- (N) Municipal, agricultural, and industrial wastes.

(O) Certain characteristics of wastewater (e.g., pH, temperature, total suspended solids, turbidity, color, BOD, COD, toxicity, or odor).

(78) PREMISES or PROPERTY means real property and includes improvements.

(79) PRETREATMENT means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the wastewater system. Pretreatment does not include the dilution of pollutant concentration unless allowed by applicable pretreatment standards.

(80) PRETREATMENT REQUIREMENTS means any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

(81) PRETREATMENT STANDARDS means pollutant concentration discharge limitation requirements established in this chapter and national pretreatment standards, including but not limited to prohibitive discharge limits established pursuant to Title 40, Code of Federal Regulations, Part 403.5, as amended.

(82) PROCESS WASTEWATER means any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

(83) PROGRAMMED EXTENSION means the water or wastewater main extensions included in or consistent with the master plan of the system, for which funds have been currently budgeted and made available through a properly authorized capital expenditure program.

(84) PROPERLY SHREDDED GARBAGE means garbage that has been shredded to such an extent that all particles will be carried freely under the flow conditions normally prevailing in wastewater mains, with no particle having greater than a one-half inch cross-sectional dimension.

(85) PUBLICLY-OWNED TREATMENT WORKS (POTW) means that term as defined in Title 40, Code of Federal Regulations, Part 403.3 q, as amended.

(86) RESIDENTIAL SERVICE means service to premises that are single-family or duplex dwelling units, or other premises containing dwelling units, each of which units is individually metered.

(87) SATISFACTORY CREDIT HISTORY WITH THE DEPARTMENT means that service has not been cut off within the past 12 months for nonpayment of charges.

(88) SERVICE means all water and water-related service provided for the use and benefit of persons inside and outside the city through the operations and facilities of the department, including but not limited to:

- (A) supply of untreated water;
- (B) supply of treated water;
- (C) wastewater collection, treatment, and disposal;
- (D) building and extension of service mains;
- (E) providing of meters and service connections to property;
- (F) discontinuance, restoration, or repair of service;
- (G) issuance and use of permits;
- (H) extension or replacement of service mains for which lot or acreage fees or other assessments are charged;
- (I) collections of rates or fees for service; and
- (J) other department activities for the benefit of the general public authorized under this chapter.

(89) SERVICE LINE means the pipe or conduit that extends from the water or wastewater main and that connects with the meter or the building lateral to provide a water or wastewater service connection.

(90) SIGNIFICANT INDUSTRIAL USER.

(A) Except as provided in subparagraphs (B) and (C) of this paragraph, the term "significant industrial user" means:

(i) all industrial user§. that are subject to categorical pretreatment standards under Title 40, Code of Federal Regulations, Part 403.6, as amended, and Title 40, Code of Federal Regulations, Chapter I, Subchapter N, as amended; and

(ii)—any other industrial user that:

(aa) discharges an average of 25,000 gallons per day or more of process wastewater to the POTW, excluding sanitary, noncontact cooling and boiler blowdown wastewater;

(bb) contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(cc) is designated as a significant industrial user by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, in accordance with Title 40, Code of Federal Regulations, Part 403.8(f)(6), amended.

(B) The control authority may determine that an industrial user subject to categorical pretreatment standards under Title 40, Code of Federal Regulations, Part 403.6, as amended, and Title 40, Code of Federal Regulations, Chapter I, Subchapter N, as amended, is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

(i) The industrial user, prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

(ii) The industrial user annually submits the certification statement required in Title 40, Code of Federal Regulations, Part 403.12(q), as amended, together with any additional information necessary to support the certification statement; and

(iii) The industrial user never discharges any untreated concentrated wastewater.

(C) Upon a finding that an industrial user meeting the criteria in clause (90)(A)(ii) of this paragraph has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standards or requirement, the control authority may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with Title 40, Code of Federal Regulations, Part 403.8(f)(6), as amended, determine that such industrial user is not a significant industrial user.

(91) **SIGNIFICANT NONCOMPLIANCE** means any of the following:

(A) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined in Title 40, Code of Federal Regulations, Part 403.3(1), as amended.

(B) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or

requirement including instantaneous limits, as defined in Title 40, Code of Federal Regulations, Part 403.3(1), as amended, multiplied by the applicable TRC (TRC=1.4 for BOD, total suspended solids, fats, oil, and grease, and 1.2 for all other pollutants except pH).

(C) Any other violation of a pretreatment standard or requirement as defined in Title 40, Code of Federal Regulations, Part 403.3(1), as amended (daily maximum, long-term average, instantaneous limit, or narrative standard), that the publicly-owned treatment works determines has caused (alone or in combination with other discharges) interference or pass-through (including endangering the health of the publicly-owned treatment works' personnel or the general public).

(D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or the environment or has resulted in the publicly-owned treatment works' exercise of its emergency authority under Title 40, Code of Federal Regulations, Part 403.8(f)(1)(vi)(b), as amended, to halt or prevent such a discharge.

(E) 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.

(F) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and compliance reports with compliance schedules.

(G) Failure to accurately report noncompliance.

(H) Any other violation or group of violations, including a violation of best management practices, that the director determines will adversely affect the operation or implementation of the local pretreatment program.

(92) **SLUG LOAD OR SLUG DISCHARGE** means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 49-43 of this chapter. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, that has a reasonable potential to cause interference or pass-through, or in any other way violates the wastewater system's regulations, local limits, or permit conditions.

(93) **STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE** means a classification scheme based on the type of manufacturing or commercial activity at a facility. Some facilities, depending on the manufacturing and activities occurring on site, may have more than one code number.

(94) **STANDARD METHODS** means the laboratory procedures or techniques for the testing, sampling, or analysis of pollutants:

(A) established and approved by the EPA; or

(B) approved by the director with the concurrence of the EPA, where the EPA has not established procedures or techniques for testing, sampling, or analyzing a pollutant in question or determines that approved procedures or techniques are inappropriate for the pollutant in question.

(95) STANDARD SIZE WASTEWATER MAIN means a wastewater main not less than eight inches in diameter.

(96) STANDARD SIZE WATER MAIN means a water main that is:

(A) not less than eight inches in diameter, but also of a size adequate to meet the hydraulic capacity of the water system; and

(B) used for standard fire protection purposes as recognized by the Insurance Services Office, which is not less than six inches in diameter adequately supported by mains not less than eight inches in diameter, but also of a size adequate to meet the hydraulic capacity of the water system.

(97) STANDBY SERVICE means connections, not normally used, to governmental entities contracting with the city for treated water.

(98) STORM SEWER means a conduit, drainage ditch, stream, or other water course that may directly or indirectly carry storm or ground water to the Trinity River.

(99) TCEQ means the Texas Commission on Environmental Quality.

(100) TOTAL SUSPENDED SOLIDS (TSS) means solids that either float on the surface of, or are suspended in, water, wastewater, or other liquids and that, in accordance with standard methods, are removable by a standard, specific laboratory filtration device.

(101) WASTE MANAGEMENT OPERATOR means a person engaged in the private business of receiving, storing, treating, or disposing of industrial waste.

(102) WASTEWATER means water-carried waste.

(103) WASTEWATER MAIN means a conduit or pipe of the wastewater system that conveys domestic wastewater or industrial wastes, or a combination of both, and into which storm surface water, ground water, or unpolluted wastes are not intentionally admitted. The term includes access structures, valves, and other appurtenances that are incidental to use of the wastewater main.

(104) WASTEWATER SYSTEM means:

(A) all treatment plants, mains, conveyances, pumps, interceptors, lift stations, connections, meters, sludge storage facilities, appurtenances, and other facilities of the city employed in the collection, treatment, and disposal of wastewater; or

(B) the publicly-owned treatment works of the city or of a governmental entity receiving or treating wastewater of the city under a contract with the city.

(105) WATER MAIN means a conduit or pipe of the water system that conveys water. The term includes fire hydrants, access structures, valves, and other appurtenances that are incidental to use of the water main.

(106) WATER SYSTEM means all treatment plants, mains, pumps, meters, connections, supply reservoirs, storage tanks, appurtenances, and other facilities of the city employed in the purification, transportation, and supply of treated and untreated water.

(107) WATER YEAR means the period that begins on June 1 of a year and ends on May 31 of the following year.

(108) WHOLESALE SERVICE means:

(A) the furnishing of untreated water to a customer, except for untreated water furnished only for domestic use;

(B) the furnishing of treated water to a governmental entity for resale to customers of that entity; or

(C) the collection and discharge of wastewater from the collection facilities of a governmental entity into the wastewater system for purposes of treatment."

"SEC. 49-41. PURPOSE AND POLICY.

(a) In general. This article sets forth uniform requirements for users of the wastewater system, to enable the city of Dallas to comply with all applicable state and federal laws, including the Federal Water Pollution Control Act, as amended by the Clean Water Act, as amended (33 USC §§1251 et seq.), and the general pretreatment regulations (Title 40, Code of Federal Regulations, Part 403). The objectives of this article are:

(1) to prevent the introduction of pollutants into the wastewater system that will interfere with its operation, including interference with its use or disposal of municipal sludge;

(2) to prevent the introduction of pollutants into the wastewater system that will pass, inadequately treated, through the wastewater system and into receiving waters, or that will otherwise be incompatible with the wastewater system;

(3) to protect the health and safety of both the wastewater system's personnel and the general public;

(4) to promote the reuse and recycling of industrial wastewater and sludge within the wastewater system;

(5) to provide for wastewater contracts between the city and other municipalities or extra-jurisdictional users who discharge to the wastewater system; and

(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 wastewater system is subject."

(b) Incorporation of EPA or TCEQ standards. All categorical pretreatment standards, sewage pretreatment rules, lists of toxic pollutants, industrial categories, and other applicable regulations promulgated by the EPA or TCEQ, including all future amendments of those standards, rules, and regulations, are incorporated into this article. (Ord. 28084)

"SEC. 49-42. ENFORCEMENT.

(a) Authority to enforce. The director and the city environmental health officer shall have the power to enforce the provisions of this article, including the right to make inspections and take enforcement action against violators. For purposes of this article, state law, and federal law, the wastewater system is a publicly-owned treatment works.

(b) Enforcement response plan.

(1) For the purpose of promoting consistency of enforcement throughout the city's jurisdiction and service area, the director shall promulgate and enforce an enforcement response plan.

(2) The plan must contain detailed procedures indicating how the city will investigate and respond to instances of industrial user noncompliance. The plan, at a minimum, must:

(A) describe how the city will investigate instances of noncompliance;

(B) describe the types of escalating enforcement responses the city will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;

(C) identify, by title, the official or officials responsible for each type of response; and

(D) adequately reflect the city's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in Title 40, Code of Federal Regulations, Sections 403.8 (f)(1) and (f)(2), as amended, and Sections 49-43 and 49-50 of this article.

(c) Administrative search warrants. The municipal court shall have the power to issue to the director or city environmental health officer administrative search warrants, or other process allowed by law, where necessary to aid in enforcing this article.

(d) Penalties. A person who violates any provision of this article or any term or condition of an industrial waste discharge permit granted pursuant to this article is guilty of a separate offense for each day or portion of a day during which the violation is continued. Each offense is punishable by a fine of not less than \$1,000 or more than \$2,000.

(e) Criminal responsibility. A person is criminally responsible for a violation of this article if the person knowingly, recklessly, intentionally, or with criminal negligence:

(1) commits or assists in the commission of a violation, or causes or permits another person to commit a violation; or

(2) owns or manages the property or facilities determined to be the cause of the illegal discharge under Section 49-43, 49-44, 49-46, 49-55.6, or 49-55.7.

(f) Civil actions. This article or the terms and conditions of a discharge permit granted pursuant to this article may be enforced by civil court action as provided by state or federal law. (Ord. Nos. 19201; 19682; 21409; 26925; 28084)

"SEC. 49-43. CERTAIN WASTES PROHIBITED IN THE WASTEWATER SYSTEM.

(a) General prohibitions. A person shall not discharge into the wastewater system, or cause or permit to be discharged into the wastewater system, any pollutant that causes a 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) Specific prohibitions. A person shall not discharge, or cause or permit to be discharged, any of the following pollutants into the wastewater system:

(1) Inflows or infiltration, as illustrated by, but not limited to, storm water, ground water, roof run-off, subsurface drainage, a downspout, a yard drain, a yard fountain or pond, or lawn spray.

(2) Wastewater or industrial waste generated or produced outside the city, unless approval in writing from the director has been given to the person discharging the waste.

(3) A liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Centigrade).

(4) Gasoline, kerosene, naphtha, fuel oil, vapors, or any other pollutant that creates a fire or explosion hazard in the wastewater system, including but not limited to industrial waste with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade).

(5) A pollutant that will cause corrosive structural damage to the wastewater system, unless the portion of the wastewater system directly or indirectly receiving the discharge is specifically designed to accommodate the corrosive discharge.

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

(7) A solid or viscous pollutant in amounts that will cause obstruction to the flow in the wastewater system, resulting in interference.

(8) Heat in quantities that will cause the temperature to exceed 104 degrees Fahrenheit (40 degrees Celsius) at any point in the wastewater system or will otherwise inhibit biological activity in the wastewater system, unless the director expressly approves alternate temperature limits in the discharger's industrial waste discharge permit.

(9) Solid or liquid substances in quantities capable of causing obstruction to the flow in wastewater mains or other interference with the proper operation of the wastewater system as illustrated by, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, slops, chemical residues, and paint residues or bulk solids, except when such items as lime slurry or lime residues are used in the treatment of combined storm and wastewater during storm runoff.

(10) A pollutant capable of forming a toxic gas, vapor, or fume in a quantity that may cause, either by itself or by interaction with other waste, hazard to life or acute employee health or safety problems.

(11) Garbage that is not properly shredded as defined in Section 49-1(81).

(12) Except where the director has determined that different limits under an industrial waste discharge permit are appropriate, wastewater exceeding 200 mg/L of oils, fats, and grease (measured as total oil and grease).

(13) A substance having a pH value lower than 5.5 or higher than 10.5.

(14) Unusual taste or odor producing substances, unless pretreated to a concentration acceptable to the director so that the material does not:

(A) cause damage to collection facilities;

(B) impair the city's treatment processes;

(C) incur treatment costs exceeding those of normal wastewater;

- (D) render the water unfit for stream disposal or industrial use; or
- (E) create a public nuisance.

(15) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.

(16) Without the approval of the director, a substance or pollutant other than industrial waste, normal domestic wastewater, septic tank waste, or chemical toilet waste that is of a toxic or hazardous nature, regardless of whether or not it is amenable to treatment, including but not limited to bulk or packaged chemical products.

(17) Except at discharge points authorized by this chapter, or by regulations promulgated by the director that are not in conflict with this chapter or other laws, wastewater or a pollutant that is trucked or hauled.

(18) Any other pollutant, substance, or material not amenable to treatment, or of a concentration or quantity sufficient to harm the wastewater system, as determined by the director.

(c) Local limits. The following effluent limits, including best management practices, general pretreatment standards in Title 40, Code of Federal Regulations, Part 403, categorical pretreatment standards, and state and local law, are established to protect against pass through and interference. The limits apply at the point where the wastewater is discharged to the wastewater system. The director may impose mass limitations in addition to, or in place of, the concentration-based limitations. All concentrations for metallic substances are for total metal unless indicated otherwise. No person may discharge wastewater containing pollutants in the form of compounds or elements with total concentrations exceeding the following uniform concentration and contributory flow limits:

(1) Uniform concentration limits for all wastewater except for wastewater discharged to the Trinity River Authority Central Regional Wastewater Treatment Plant and City of Garland Duck Creek Wastewater Treatment Plant.

Pollutant	Central Wastewater Treatment Plant	Southside Wastewater Treatment Plant
	Maximum Allowable Discharge Limit, mg/L	Maximum Allowable Discharge Limit, mg/L
Arsenic	0.07	0.50
Cadmium	0.34	1.00
Chromium	3.62	5.00
Copper	4.00	4.00

Cyanide	0.71	1.60
Lead	1.60	1.60
Mercury	0.0006	0.01
Nickel	<u>See Paragraph 49-43(c)(2) of this subsection</u>	5.58
Selenium	0.20	0.20
Silver	0.36	3.04
Sulfide	10.00	10.00
Zinc	3.06	5.00

(2) Contributory flow limits at the Central Wastewater Treatment Plant

(A) For contributing industrial users, the contributory flow pollutant limitation for nickel is 3.14 mg/L.

(B) For non-contributing industrial users, the contributory flow pollutant limitation for nickel is 0.0028 mg/L.

(C) For purposes of this paragraph, a contributing industrial user is an industrial user found by the city to discharge nickel above the industrial contributory screening limits at the Central Wastewater Treatment Plant.

(3) Uniform concentration limits for wastewater discharged to the Trinity River Authority Central Regional Wastewater Treatment Plant.

Pollutant	TRA Central Wastewater Treatment Plant	
	Maximum Allowable Discharge Limit, mg/L	
Arsenic	[0.20]	<u>0.2</u>
Cadmium	[0.10]	<u>0.1</u>
Chromium	[2.90]	<u>2.1</u>
Copper	[2.30]	<u>1.8</u>
Cyanide	[0.50]	<u>0.4</u>
Lead	[0.90]	<u>1.2</u>
Mercury	[0.0004]	<u>0.06</u>
Molybdenum	[0.80]	<u>0.5</u>
Nickel	[4.60]	<u>3.3</u>
Selenium	[0.10]	<u>0.2</u>
Silver	[0.80]	<u>0.8</u>
[TTO]	[2.13]	
[Sulfide]	[NA]	

Zinc	[8.00] 6.1
Oil and grease	200.00
pH	5.5 to 11.0 Standard Units

(4) Uniform concentration limits for wastewater discharged to the City of Garland Wastewater Treatment Plant.

Pollutant	Garland Duck Creek Wastewater Treatment Plant
	Maximum Allowable Discharge Limit, mg/L
Arsenic	1.1
Cadmium	0.2
Chromium	17
Copper	0.5
Lead	2.3
Mercury	0.005
Nickel	5.8
Selenium	0.7
Silver	0.7
Zinc	15

(d) Defenses. It is a defense to prosecution under Subsection (a) of this section and to a civil court action enforcing Subsection (a) of this section if a person can demonstrate that:

(1) a specific numeric local discharge limit to prevent pass through or interference exists under this section for each pollutant in the person's wastewater discharge that caused pass through or interference and the person's wastewater discharge was in compliance with the applicable specific local discharge limit for each pollutant directly prior to and during the pass through or interference; or

(2) if a specific numeric local discharge limit does not exist under this section for the pollutant in question, the person's wastewater discharge did not change substantially in nature or in constituent parts from the person's prior wastewater discharges when the city was regularly in compliance with its Texas Pollutant Discharge Elimination System permit and, in the case of interference, with applicable federal requirements for wastewater sludge use or disposal.

(e) Enforcement actions. If a person discharges a substance into the wastewater system

in violation of this section, fails to comply with the reporting requirements of this article, or falsifies or improperly alters pretreatment records required under Section 49-51, the director may take any of the following actions in accordance with 49-42(b):

(1) Suspend discharge. After informal notice, immediately suspend or halt an industrial user's discharge.

(2) Terminate service. Terminate water and wastewater service to the premises from which the substance was discharged.

(3) Suspend or revoke permit. If the person was discharging wastewater pursuant to an industrial waste discharge permit issued under Section 49-46, revoke or suspend the permit.

(4) Require pretreatment. By administrative order, where applicable, or by other authorized means, require pretreatment or control of the quantities and rates of discharge of wastewater to bring the discharge within the limits established by this section.

(5) Criminal or civil enforcement.

(A) Request a court of competent jurisdiction to assess a civil fine against the industrial user in an amount of not less than \$1,000. The fine will be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limit violations, the fine will be assessed for each day during the period of violation. In addition, the city may seek to recover the remediation and clean-up costs from the industrial user, and the costs of preparing and bringing the enforcement action. In determining the amount of the fine, the court may consider the following:

- (i) The extent of the harm caused by the violation.
- (ii) The magnitude and duration of the violation.
- (iii) Any economic benefit gained by the industrial user as a result of the violation.
- (iv) The timing and nature of any corrective actions taken by the industrial user.
- (v) The compliance history of the industrial user.
- (vi) The provisions of the enforcement response plan.
- (vii) Any other information deemed relevant by the court.

(B) Bring a criminal or any other civil enforcement action as authorized in Section 49-42.

(f) Administrative authority of director. The director has the authority to do any of the following to ensure compliance with this chapter:

(1) Notice of violation. The director may serve a written notice of violation. This does not prevent the director from taking any action, including an emergency action or any other enforcement action, without first issuing a notice of violation.

(2) Consent or administrative orders. The director may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with an industrial user responsible for noncompliance. The agreement must include specific action to be taken by the industrial user to correct the noncompliance within a time period specified in the agreement. The agreement has the same force and effect as the administrative orders issued pursuant to Section 49-43(e)(4) and is judicially enforceable.

(3) Show cause hearing. The director may order an industrial user that has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or any other pretreatment standard or requirement, to appear before the director and show cause why the proposed enforcement action should not be taken. Notice must be served on the industrial user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the industrial user show cause why the proposed enforcement action should not be taken. A show cause hearing is not a bar against, or prerequisite for, taking any other action against the industrial user.

(4) Compliance orders. When the director finds that an industrial user has violated, or continues to violate, any provision of this chapter or any other pretreatment standard or requirement, the director may issue an order to the industrial user responsible for the discharge directing that the industrial user come into compliance within a specified time. If the industrial user does not come into compliance within the time provided, wastewater service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Issuance of a compliance order is not a bar against, or a prerequisite for, taking any other action against the industrial user.

(5) Cease and desist orders. When the director finds that an industrial user has violated, or continues to violate, any provision of this chapter or any other pretreatment standard or requirement, or that the industrial user's past violations are likely to recur, the director may issue an order to the industrial user directing it to cease and desist all such violations and directing the industrial user to:

(A) immediately comply with all requirements; and

(B) take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge. Issuance of a cease and desist order is not a bar against, or a prerequisite for, taking any other action against the industrial user.

(6) Injunctive relief. When the director finds that an industrial user has violated, or continues to violate, any provision of this chapter, or any other pretreatment standard or requirement, the director may petition a court of competent jurisdiction through the city attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels

the specific performance of the individual wastewater discharge permit or other requirement imposed by this chapter on the activities of the industrial user. The director may also seek any other relief, including environmental remediation. A petition for injunctive relief is not a bar against, or a prerequisite for, taking any other action against an industrial user.

(g) No waiver of other enforcement; remedies nonexclusive.

(1) Action taken by the director under Subsection (e) or (f) does not prevent the use of other enforcement methods available to the city.

(2) The remedies provided for in Subsections (e) and (f) are not exclusive. The director may take any combination of these actions against an industrial user.

(h) Applicability of more stringent pretreatment standards.

(1) National pretreatment standards. If the EPA adopts national pretreatment standards, categorical or otherwise, that are more stringent than the discharge limits prescribed in Subsections (a), (b), and (c) of this section, the more stringent national pretreatment standards will apply. A violation of the more stringent national pretreatment standards will be considered a violation of this article.

(2) Combined wastestream formula. When wastewaters subject to a categorical pretreatment standard (regulated, unregulated, and diluted wastestreams) are mixed prior to effluent sampling, the director shall impose an alternative limit in accordance with Title 40, Code of Federal Regulations, Section 403.6, as amended.

(i) Applicability of more stringent instantaneous discharge limits. An industrial user within the city who discharges industrial waste ultimately received and treated by a publicly-owned treatment works owned by a governmental entity pursuant to a wholesale wastewater contract or a reciprocal agreement with the city is subject to the following additional rules:

(1) If the governmental entity has more stringent instantaneous maximum allowable discharge limits than those prescribed by this section, or by a discharge permit issued under Section 49-46, because the EPA or the TCEQ requires the more stringent instantaneous maximum allowable discharge limits as a part of the governmental entity's wastewater pretreatment program, the more stringent discharge limits will prevail. The director shall furnish to all industrial users affected by this subsection a copy of the more stringent discharge limits in effect under the contract. If a permit is issued to an industrial user under this subsection, a copy of the more stringent discharge limits must be included with the permit.

(2) The director shall issue a discharge permit in accordance with Section 49-46 to an industrial user affected by Paragraph (1) of this subsection, to ensure notice of and compliance with the more stringent instantaneous maximum allowable discharge limits. If the industrial user already has a discharge permit, the director shall amend the permit to apply and enforce the more stringent instantaneous maximum allowable discharge limits. An industrial user permitted under this subsection shall submit to the director an expected compliance date and an installation schedule if the more stringent instantaneous maximum allowable discharge limits necessitate technological or mechanical adjustments to discharge facilities or plant processes.

(3) If the director receives notice from the governmental entity of a change to the instantaneous maximum allowable discharge limits or to other applicable requirements, the director shall notify the affected industrial user in writing of the change and of the effective date of the change, amend the permit to apply and enforce the change, and furnish a copy of the change with the amended permit. If the change results in more stringent instantaneous maximum allowable discharge limits or other applicable requirements, an industrial user shall be given a reasonable opportunity to comply with the more stringent limits or requirements.

(4) The more stringent instantaneous maximum allowable discharge limits cease to apply upon termination of the city's wholesale wastewater contract or reciprocal agreement with the governmental entity, or upon modification or elimination of the limits by the governmental entity, the EPA, or the TCEQ. The director shall take the appropriate action to notify the affected industrial user of an occurrence under this paragraph.

(i) Variations in compliance dates. The director may grant a variance in compliance dates to an industrial user when, in the director's opinion, such action is necessary to achieve pretreatment or corrective measures. In no case may the director grant a variance in compliance dates to an industrial user affected by national categorical pretreatment standards beyond the compliance dates established by the EPA.

(k) Authority to regulate. The director may establish regulations, not in conflict with this chapter or other laws, to control the disposal and discharge of industrial waste into the wastewater system and to ensure compliance of the city's pretreatment enforcement program with all applicable pretreatment regulations promulgated by the EPA. The regulations established must, where applicable, be made a part of any discharge permit issued to an industrial user by the director under Section 49-46."

"SEC. 49-44. WASTE DISPOSAL THROUGH VEHICLES, GREASE TRAPS/INTERCEPTORS, OR OTHER MEANS.

(a) Illegal waste disposal. A person commits an offense if:

(1) from a vehicle, portable tank, or other container used for transporting water, normal domestic wastewater, or industrial waste, the person discharges or causes the discharge of water, normal domestic wastewater, or industrial waste into the wastewater system or a private sewer facility directly or indirectly connected to the wastewater system;

(2) by any means, the person discharges or causes the discharge of water, normal domestic wastewater, or industrial waste into a part of the wastewater system generally used for maintenance or monitoring, including but not limited to manholes, cleanouts, or sampling chambers; or

(3) by means of a mechanical device or extraneous water, the person forces normal domestic wastewater or industrial waste collected in a grease trap/interceptor, sand trap/interceptor, or other waste collection device into the wastewater system or a private sewer facility directly or indirectly connected to the wastewater system.

(b) Defense. It is a defense to prosecution under Subsection (a) if the discharge of water, normal domestic wastewater, or industrial waste into the wastewater system, or into a private sewer facility directly or indirectly connected to the wastewater system, is from a motor vehicle:

(1) that is specially designed and adapted to treat water, normal domestic wastewater, or industrial waste to concentrations meeting the requirements of this article prior to discharge into the wastewater system; and

(2) the operator of which has written permission from the director to operate the vehicle within the city. (Ord. Nos. 19201; 26925; 28084)

"SEC. 49-45. RIGHT OF ENTRY OF FEDERAL, STATE, AND CITY EMPLOYEES.

The following officials, bearing proper credentials and identification, shall be permitted to gain access to properties as may be necessary for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this article:

(1) Authorized representatives of the EPA and TCEQ.

(2) The director, the city environmental health officer, and other duly authorized employees of the city. (Ord. Nos. 19201; 26925; 28084)

"SEC. 49-46. PERMITS REQUIRED FOR DISCHARGE OF INDUSTRIAL WASTE; APPLICATIONS; EXEMPTIONS.

(a) Permit required. A significant industrial user commits an offense if he discharges, or allows the discharge of, industrial waste into the wastewater system without obtaining and maintaining a valid significant industrial user permit from the director, except that a significant industrial user that has filed a timely application pursuant to Section 49-46(e) of this ordinance may continue to discharge for the time period specified in that application.

(b) Application procedures.

(1) Application for a permit required under Subsection (a) must be made to the director upon a form provided for the purpose.

(2) The application must contain:

(A) a description of the activities, structures, equipment, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility that are, or could be, discharged into the wastewater system;

(B) the site plans, floor plans, and mechanical and plumbing plans of the facility with sufficient detail to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(C) the number and type of employees and proposed or actual hours of operation of the facility;

(D) a list of each product produced by type, the amount of the product produced, the process or processes used to produce the product, and the rate of production;

(E) the type and amount of raw materials processed (average and maximum per day);

(F) the time and duration of discharges;

(G) a certification statement complying with the requirements of Section 49-51(m) and signed by a designated authorized representative of the applicant;

(H) self-monitoring, sampling, reporting, notification, and record-keeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with Title 40, Code of Federal Regulations, Section 403.12(e)(2), as amended, or a specific waived pollutant in the case of an individual control mechanism), sampling location and frequency, and sample type, based on the applicable general pretreatment standards in Title 40, Code of Federal Regulations, Chapter 403, as amended, categorical pretreatment standards, local limits, and the regulations of state law and this chapter;

(I) best management practices if required by the pretreatment standards; and

(J) any other information deemed necessary by the director to evaluate the wastewater discharge permit application.

(3) The director may establish further regulations and procedures not in conflict with this chapter or other laws regarding the granting and enforcement of permits, including but not limited to administrative orders issued for the purpose of bringing a violator back into compliance with a permit.

(c) Terms and conditions of permit, in general. The director shall prescribe such terms and conditions of the permit as are required and authorized by the EPA and TCEQ, as necessary to ensure full compliance with this article and all national pretreatment standards and regulations. In addition, the permit must incorporate all applicable national pretreatment standards and all other pretreatment regulations promulgated by the EPA and TCEQ applicable to significant industrial users. These terms and conditions shall include but are not limited to:

(i) effluent limits, including best management practices, based on applicable general Pretreatment Standards in 49-48(b), categorical Pretreatment Standards, local limits, and State and local law;

(ii) self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with Title 40, Code of Federal Regulations, Section 403.12(e)(2), as amended, or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in Title 40, Code of Federal Regulations, Chapter 403, as amended, categorical pretreatment standards, local limits, and state and local law; and

(iii) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines; and requirements to control slug discharges, if determined by the POTW to be necessary.

A person commits an offense if the person violates or allows a violation of any term or condition of a permit issued under this section. The director may enforce the terms and conditions of the permit as authorized under this chapter in accordance with 49-42(b).

(d) Limitation on permit term. The term of a permit may never be longer than five years.

(e) Permit renewal. An industrial user wishing to renew a permit must file a complete application with the director at least 30 days prior to the expiration of the industrial user's existing permit. Failure to submit a complete application with the director at least 30 days prior to expiration of the existing permit may subject the industrial user to enforcement actions.

(f) Issuance of permits. Any user required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with Section 49-46(b) of this ordinance, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence. The director shall issue a permit under Subsection (a) if:

(1) the director determines that pretreatment facilities are adequate for efficient treatment of discharged waste and comply with the waste concentration level requirement of Section 49-43 or with national pretreatment standards, whichever is applicable;

(2) the applicant has submitted:

(A) an expected compliance date;

(B) an installation schedule of approved pretreatment devices; and

(C) a self-monitoring, sampling, reporting, notification and recordkeeping plan, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with Title 40, Code of Federal Regulations, Section 403.12(e)(2), as amended, or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in Title 40, Code of Federal Regulations, Chapter 403, as amended, categorical pretreatment standards, local limits, and state and local law; or

(3) the applicant is not discharging wastewater in violation of Section 49-43.

(g) Nontransferability. A permit granted under this section is not transferable or assignable.

(h) Changes in authorized representative designation. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the director prior to, or together with, any reports to be signed by an authorized representative.

(i) Defense to enforcement actions. It is a defense to prosecution or to civil court action brought under this article for a violation of pretreatment standards that the person held a valid permit issued under this section and the person discharged industrial waste in violation of national categorical pretreatment standards as the result of any of the following:

(1) Any act of God, war, strike, riot, or other catastrophe.

(A) The act of God defense constitutes a statutory affirmative defense contained in Section 7.251 of the Texas Water Code in an action brought in municipal or state court. If a person can establish that an event that would otherwise be a violation of this article, or a permit issued pursuant to this article, was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of this article or the permit.

(B) An industrial user who wishes to establish the act of God affirmative defense must:

(i) demonstrate through relevant evidence that the sole cause of the violation was an act of God, war, strike, riot, or other catastrophe; and

(ii) submit the following information to the city within 24 hours of becoming aware of the violation (if this information is provided orally, a written submission

must be provided to the director within five days):

(aa) A description of the event, and the nature and cause of the event.

(bb) The time period of the violation, including exact dates and times or, if still continuing, the anticipated time the violation is expected to continue.

(cc) The steps being taken or planned to reduce, eliminate and prevent recurrence of the violation.

(C) The industrial user seeking to establish the act of God affirmative defense has the burden of proving by a preponderance of the evidence that the violation of this article, or a permit issued pursuant to this article, was caused solely by an act of God, war, strike, riot or other catastrophe.

(2) A bypass authorized by the director in accordance with Title 40, Code of Federal Regulations, Section 403.17(c), as amended.

(3) An upset authorized by the director in accordance with Title 40, Code of Federal Regulations, Section 403.16(c), as amended."

"SEC. 49-47 DENIAL, SUSPENSION, OR REVOCATION OF PERMITS; AMENDING PERMITS.

(a) Grounds for denial, suspension, or revocation. The director may deny a permit required by Section 49-46(a) if the director determines that an applicant is not qualified under Section 49-46(f). The director may suspend or revoke a permit if the director determines that a permittee:

- (1) is not qualified under Section 49-46(f);
- (2) has violated a provision of this article, the permit, or any administrative order;
- (3) has failed to pay a fee required by this chapter;
- (4) has failed to comply with applicable federal pretreatment standards and requirements;
- (5) has failed to comply with the compliance schedule submitted pursuant to

Section 49-46(f)(2);

(6) has failed to comply with procedures for developing, maintaining, or delivering manifest records required to be developed, maintained, or delivered pursuant to this article, Chapter 19, Article X of this code, or state or federal laws or regulations for the transfer, transportation, or disposal of industrial waste; or

(7) has falsified or improperly altered manifest records required to be developed, maintained, or delivered pursuant to this article, Chapter 19, Article X of this code, or state or federal laws or regulations for the transfer, transportation, or disposal of industrial waste.

(b) Reinstatement. After suspension under this section, a permittee may file a request for reinstatement of the permit. The director shall reinstate the permit if the director determines that:

(1) the permittee is again qualified under Section 49-46(f);

(2) all violations of this article and applicable federal pretreatment standards and requirements have been corrected;

(3) precautions have been taken by the permittee to prevent future violations;
and

(4) all fees required by this chapter have been paid.

(c) New permit after revocation. If the director revokes a permit, the permittee may not apply for or be issued a new permit for the same facility earlier than 180 days after the date of revocation of the old permit, except that, if, subsequent to the revocation, the director determines that all of the conditions prescribed in Section 49-46(c) and (f) and Section 49-47(b) are completely satisfied, the permittee may apply for and the director may issue a new permit before the 180-day period expires.

(d) Discharge without permit. A permittee whose permit is suspended or revoked shall not discharge industrial waste into the wastewater system.

(e) Amending a permit. The director may amend a permit with additional requirements to ensure compliance with applicable laws and regulations. (Ord. Nos. 19201; 21409; 26925; 28084)

"SEC. 49-48. **PRETREATMENT AND DISPOSAL.**

(a) Operation and maintenance of pretreatment facilities. When pretreatment of industrial waste is required by the director as a condition for acceptance of the waste into the wastewater system, the owner of the premises from which the waste is discharged must operate and maintain treatment facilities in a manner capable of complying with applicable discharge standards.

(b) Best management practices. The director may develop BMPs and require a person discharging to the wastewater system to adopt and implement such BMPs, source reduction, and pollution prevention practices if necessary to protect the wastewater system.

(c) Septage and chemical toilet waste.

(1) No transported septage or chemical toilet waste may be discharged into the wastewater system except at such locations and at such times as are established by the director.

(2) The director may collect samples of each transported load to ensure compliance with applicable standards. The director may also require the transporter to provide a waste analysis of any load prior to discharge.

(3) Article X of Chapter 19 of this code provides additional regulations for the production, transportation, and disposal of liquid waste.

(d) Disposal of trucked industrial solid waste.

(1) In order to ensure that trucked industrial solid waste is not being discharged into the wastewater system, the director may require an industrial user who generates such waste to report the type and amount of the waste, and the location and manner of its disposal as specified in Section 49-51(i).

(2) An industrial user commits an offense if the user fails to provide the reports requested by the director pursuant to Subsection (d)(1) of this section.

(e) Dilution. No owner, operator, or permittee of premises shall ever increase the use of process water, or in any way attempt to dilute a discharge, unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations on industrial users who are using dilution to meet applicable pretreatment standards or requirements.

(f) Bypass

(1) Bypasses that do not violate pretreatment standards. An industrial user may allow any bypass to occur that does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Subsection (f)(2) of this section.

(2) Bypasses that violate pretreatment standards.

(A) If the need for a bypass is known in advance, the industrial user shall provide notice to the director 10 days prior to the bypass. In the event of an unanticipated bypass, oral notice must be provided to the director within 24 hours after the industrial user becomes aware of the bypass. In addition to the oral notice, written notice must be provided to the director within five days of the time the industrial user becomes aware of the bypass, unless waived by the director. The written notice must contain the following:

- (i) A description of the bypass and its cause.
- (ii) The duration of the bypass, including exact dates and times.
- (iii) If the bypass has not been corrected, the anticipated time it is expected to continue.

(iv) Steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.

(B) The director may take an enforcement action against an industrial user for a bypass that violates pretreatment standards, unless all of the following apply:

(i) The bypass was necessary in order to prevent loss of life, personal injury, or severe property damage.

(ii) There was no feasible alternative to the bypass. The director shall find that a feasible alternative existed if, in the exercise of reasonable engineering judgment, adequate back-up equipment should have been installed to prevent the bypass.

(iii) The industrial user submitted notices as required under Paragraph (2)(A) of this subsection.

(C) The director may approve an anticipated bypass, after considering its adverse effects, if the director finds that all three conditions listed in Paragraph (2)(B) of this subsection have been satisfied."

"SEC. 49-49 INDUSTRIAL SURCHARGE FOR EXCESSIVE CONCENTRATIONS; SAMPLING FEES.

(a) Excessive BOD/TSS concentrations. A person discharging into the wastewater system industrial waste that exhibits none of the characteristics of wastewater prohibited in Section 49-43(b), but that has a concentration for a duration of 15 minutes that is greater than four times that of normal wastewater as measured by total suspended solids, BOD, or both or a concentration during a 24 hour period average of total suspended solids, BOD, or both in excess of normal wastewater, shall pretreat the industrial waste to meet the concentrations of normal wastewater; except, that the industrial waste may be accepted in the wastewater system for treatment by the city if all the following requirements are met:

(1) The industrial waste will not cause damage to the wastewater system.

(2) The industrial waste will not impair the city's treatment processes.

(3) The BOD or total suspended solids concentration of industrial waste discharged does not cause the average BOD or total suspended solids of wastewater received at the wastewater treatment plant to increase above 250 mg/L.

(4) The person discharging the industrial waste pays an industrial surcharge in addition to the regular water and sewer rates, in accordance with the formula prescribed in Section 49-18.12(a)(1) or in accordance with Section 49-50.

(b) Sampling fees for determining compliance. A person determined to be discharging industrial waste must compensate the city for the cost of sampling and laboratory service expense required for monitoring the discharges for compliance with this article and applicable standards of the EPA. The director shall determine the number of samples and the frequency of sampling necessary to maintain surveillance of the discharges, provided that at least two sampling

events will be conducted each calendar year.

(c) Sampling fees for industrial surcharge. A person discharging concentrations of BOD or total suspended solids in excess of 250 mg/L shall compensate the city for the cost of sample collections and laboratory service necessary when an industrial surcharge rate is established each year. This subsection does not apply to a waste management operator, or to a discharger who is billed under Section 49-50. (Ord. Nos. 19201; 21430; 21409; 26925; 28084)

"SEC. 49-50 ESTIMATED INDUSTRIAL SURCHARGE FOR CLASS GROUP.

(a) Classes established. The director shall classify commercial and industrial establishments that routinely discharge BOD and total suspended solids concentrations exceeding 250 mg/L into the following class groups:

CLASS	DESCRIPTION
(1)	EATING PLACES: Includes restaurants and other establishments that engage in preparation of food and beverage served directly to the consumer.
(2)	EQUIPMENT SERVICE FACILITIES: Includes establishments that perform washing, cleaning, or servicing of automobiles, trucks, buses, machinery, or equipment and includes public facilities, facilities limited to specific companies, and attended and coin-operated establishments.
(3)	FOOD AND KINDRED PRODUCTS PROCESSING: Includes commercial establishments that engage in the preparation, packaging, processing, or distribution of food, food products, grains, or produce, other than those included in Class (1) and that discharge less than 200,000 gallons of wastewater per month.
(4)	DRINKING PLACES: Includes bars, lounges, clubs, and other establishments that do not engage in any food preparation but that engage in the sale of beer, wine, liquor, or any other beverage served directly to the consumer.

(b) Assessment of surcharge class rate. The director shall assess an industrial surcharge rate for each class group based on industrial waste strength determinations established by averaging grab or composite samples, or both, taken from a representative number of establishments in each group and shall apply this rate to the water consumption or metered wastewater of the establishment. If the establishment is within a larger facility for which water usage is determined from a master meter, the director shall determine an estimated volume for the establishment to which the surcharge rate is applied. The director shall then add the appropriate industrial surcharge to billings for regular water and wastewater service for each establishment classified into a class group.

(c) Exceptions to surcharge class rate. If an establishment contains operations from more than one of the class groups, and the director determines that the surcharge rate for a

particular class group would not adequately compensate the city for its cost of treatment, the director may:

(1) assess a surcharge rate based on a proportional average of the class group rates involved; or

(2) require the establishment to be billed for an industrial surcharge computed under the requirements of Section 49-18.12(1)(A) or (B), whichever applies.

(d) Election of standard surcharges. The owner or agent of the owner of an establishment classified into a class group may elect to have the industrial surcharge billed directly under Section 49-18.12(1)(A) or (B), whichever applies, rather than under this section by making application to the director and paying the required sampling costs.

(e) Authority to revise rates. The director may, from time to time, revise class group surcharge rates based on analysis of current samples. (Ord. Nos. 19201; 21061; 21430; 26925; 28084)

"SEC. 49-51 **REPORTING REQUIREMENTS.**

(a) Baseline monitoring reporting.

(1) Deadlines for submission of reports.

(A) Existing categorical users. Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Title 40, Code of Federal Regulations, Section 403.6(a)(4), as amended, whichever is later, existing categorical users currently discharging to or scheduled to discharge to the wastewater system shall submit to the director a report that contains the information listed in Subsection (a)(2) of this section.

(B) New sources and new categorical users. Ninety days prior to commencement of discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard shall submit a report containing the information listed in Subsection (a)(2) to the director. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. In addition to the information required in Subsection (a)(2), a new source shall also provide:

(i) the method of pretreatment it intends to use to meet applicable categorical standards; and

(ii) estimates of its anticipated flow and quantity of pollutants to be discharged.

(2) Required information in report. The following must be provided in the report required in Subsection (a)(1):

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

(B) Environmental permits. A list of any environmental control permits held by or for the facility.

(C) Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operations carried out by the industrial user. The description should include a schematic diagram indicating points of discharge to the wastewater system from the regulated processes.

(D) Flow measurement. Information showing the measured average and maximum daily flows (in gallons per day) to the wastewater system from regulated process streams and other streams, if necessary, to allow use of the combined wastestream formula set out in Title 40, Code of Federal Regulations, Section 403.6(e), as amended.

(E) Measurement of pollutants.

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

(ii) The results of sampling and analysis identifying the nature and concentration (and mass, where required by the standard or by the director) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations (and mass, where required) must be reported. The sample must be representative of daily operations and analyzed in accordance with procedures set out in Subsection G).

(iii) Sampling must be performed in accordance with the procedures set out in Subsection (k).

(F) Certification statement. A statement, reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, or, if not, whether additional operation and maintenance or additional pretreatment is required to meet the pretreatment standards and requirements.

(G) Compliance schedule. If additional pretreatment or operation and maintenance is required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide the pretreatment or operation and maintenance. No completion date in this schedule may be later than the compliance date established for the applicable pretreatment standard. The compliance schedule must meet the requirements of Subsection (b).

(H) Signature and certification. All baseline monitoring reports must be signed and certified in accordance with Subsection (m).

(b) Compliance schedule progress reports.

(1) The initial report must 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 of the industrial user to meet the applicable pretreatment standards (examples of a major event include, but are not limited to, the hiring of an engineer, the completion of preliminary and final plans, the execution of contracts for major components, and the commencement and completion of construction). No progress increment may exceed nine months.

(2) The industrial user shall submit a report to the director no later than 14 days following each scheduled progress increment date. The report must include, at a minimum, whether or not the industrial user complied with the increment of progress, the reason for delay, if any, and, if appropriate, the steps being taken by the user to return to the established schedule. In no event may more than nine months elapse between submission of a progress report to the director.

(c) Reports on compliance with categorical pretreatment standard deadline.

(1) All industrial users subject to categorical pretreatment standards shall submit to the director a report containing the information described in Subsections (a)(2)(E) through (H).

(2) If an industrial user is subject to equivalent mass or concentration limits established in accordance with the procedures in Title 40, Code of Federal Regulations, Section 403.6(c), as amended, the report must also contain a reasonable measure of the industrial user's long-term production rate.

(3) For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit, the report must include the industrial user's actual production during the appropriate sampling period.

(4) All compliance reports must be signed and certified in accordance with Subsection (m) and submitted within 90 days following the date of 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.

(d) Periodic compliance reports.

(1) All significant industrial users shall, at a frequency determined by the director but in no event less than twice a year (once in July covering the six-month period between January 1 through June 30, and once in January covering the six-month period between July 1 through December 31), submit a report containing at a minimum:

(A) the nature and concentration of pollutants in the discharge limited by pretreatment standards;

(B) the measured or estimated average and maximum daily flows for the reporting period; and

(C) contributing information necessary to account for water usage, materials recovery, or disposal practices.

(2) All periodic compliance reports must be signed and certified in accordance with Subsection (m).

(3) All wastewater samples must be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities must be properly operated, kept clean, and maintained in good working order at all times. Failure of an industrial user to keep its monitoring equipment in good working order negates any grounds for the industrial user's potential claim that sample results are unrepresentative of its discharge.

(4) If an industrial user subject to the reporting requirement in this section monitors any pollutant using the procedures prescribed in Subsections G) and (k), the results of the monitoring must be included in the report.

(e) Notification of changed conditions.

(1) At least 90 days before any planned significant change to an industrial user's operations or system that might alter the nature, quality, or volume of its wastewater, the industrial user shall notify the director of the change.

(2) The director may require the industrial user to submit all information deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 49-46(a). The director shall evaluate whether the industrial user needs a plan or other action to control accidental discharges.

(3) The director may issue a wastewater discharge permit or modify an existing wastewater discharge permit in response to changed or anticipated changed conditions.

(4) For purposes of this requirement, significant changes include, but are not limited to, flow increases or decreases of 20 percent or greater, the discharge of any previously unreported pollutants, and the deletion of any pollutant regulated by this article or a permit issued pursuant to this article.

(5) Significant industrial users are required to notify the director immediately of any changes at its facility affecting the potential for a slug discharge.

(f) Reports of accidental (Slug) discharges.

(1) In the case of any discharge (including an upset, an accidental discharge, a discharge of a non-routine, episodic nature, a non-routine batch discharge, or a slug load) that may cause potential problems for the wastewater system, the industrial user shall immediately telephone and notify the director of the incident. This notification must include the location of the discharge, the type of waste, the concentration and volume, and corrective actions taken by the industrial user.

(2) Within five days following the discharge, the industrial user shall, unless waived by the director, submit to the director a detailed written report that provides:

(A) a description and cause of the discharge, including location, type, and concentration of the discharge and the volume of water;

(B) the duration of noncompliance, including the exact dates and times of noncompliance and, if the noncompliance is continuing, an immediate response to cause the noncompliant discharge to cease; and

(C) all steps taken or to be taken to reduce, eliminate, and prevent continuation or recurrence of an upset, slug load, or accidental discharge, spill, or other condition of noncompliance.

(3) The notification does not relieve the industrial user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the wastewater system or to natural resources, or any other damage to persons or property, nor does the notification relieve the industrial user of any fines, penalties, or other liability that may be imposed pursuant to this chapter.

(4) A notice must be permanently posted on the industrial user's bulletin board or in another prominent location advising employees whom to call in the event of a discharge. An industrial user shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(5) The director shall evaluate whether the industrial user needs a plan or other action to control possible future accidental discharges.

(6) The results of the activities described in paragraphs (1) through (5) of this subsection shall be made available to the approval authority upon request.

(g) Reports from non-permitted users. Industrial users not required to obtain a wastewater discharge permit must still provide appropriate reports to the director when required by the director.

(h) Submission of self-monitoring reports and violations based on self-monitoring. If sampling performed by an industrial user indicates a violation, the user shall notify the control authority within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within

30 days after becoming aware of the violation. Where the control authority has performed the sampling and analysis in lieu of the industrial user, the control authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling is not required if:

(1) The control authority performs sampling at the Industrial User at a frequency of at least once per month; or

(2) The control authority performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the control authority receives the results of this sampling.

(i) Notification of the discharge of hazardous waste.

(1) Notification process in general.

(A) Pursuant to Title 40, Code of Federal Regulations, Section 403.12(p), as amended, any industrial user that commences the discharge of a hazardous waste listed in Title 40, Code of Federal Regulations, Part 261, as amended, shall notify the director, the EPA Region VI Waste Management Division Director, and the TCEQ, in writing, of the discharge.

(B) The notification must include the name of the hazardous waste as set forth in Title 40, Code of Federal Regulations, Part 261, as amended, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other).

(C) If the industrial user discharges more than 100 kilograms of hazardous waste in a calendar month to the wastewater system, the notification must also contain the following information to the extent the information is known and readily available to the industrial user:

(i) An identification of the hazardous constituents contained in the wastes.

(ii) An estimation of the mass and concentration of the constituents in the wastestream discharged during that calendar month.

(iii) An estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months.

(D) All notifications must be sent within 180 days after the discharge commences. Only one notification is required for each hazardous waste discharged. Notification of changed conditions, however, must be submitted pursuant to Subsection (e). The notification requirement in this subsection does not apply to pollutants already reported by industrial users subject to categorical pretreatment standards under the self-monitoring requirements of Sections 49-51(h) and 49-55.3.

(2) Certain discharges exempt. A discharger is exempt from the requirements of Subsection (i)(1) during a calendar month in which it discharges no more than 15 kilograms of non-acute hazardous waste. Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in Title 40, Code of Federal Regulations, Sections 261.30(d) and 261.33(e), as amended, requires a one-time notification. No additional notification is required for the subsequent discharge of a hazardous waste in excess of the quantities permitted.

(3) Listing of new hazardous waste. In the case of any new regulation under Section 3001 of the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.) identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user shall notify the director, the EPA Region VI Waste Management Division Director, and the TCEQ of the discharge of such substance within 90 days after the effective date of the regulation.

(4) Certification required. In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(5) No right to discharge created. This subsection does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued under this chapter, or any applicable federal or state law.

G) Analytical requirements. All pollutant analyses (including sampling techniques) to be submitted as part of a wastewater discharge permit application or report must be performed in accordance with the techniques prescribed in Title 40, Code of Federal Regulations, Part 136, as amended, unless otherwise specified in an applicable categorical pretreatment standard. If Title 40, Code of Federal Regulations, Part 136, as amended, does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA or TCEQ.

(k) Sample collection.

(1) Except as indicated in Subsection (k)(2), the industrial user shall collect wastewater samples using flow proportional composite collection techniques. If flow

proportional sampling is not feasible, the director may authorize the use of time proportional sampling or a minimum of four grab samples if 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.

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

(3) The industrial user shall comply with self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with Title 40, Code of Federal Regulations, Section 403.12(e)(2), as amended, or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in Title 40, Code of Federal Regulations, Chapter 403, as amended, categorical pretreatment standards, local limits, and State and local law.

(1) Date reports deemed received. Written reports are deemed to have been submitted on the date postmarked. For reports that are not mailed, postage prepaid, into a mail receptacle serviced by the United States Postal Service, the date the report is received governs.

(m) Certification and signatory requirements.

(1) The following must be certified to and signed by the authorized representative:

(A) All permit applications.

(B) Baseline monitoring reports.

(C) Reports on compliance with categorical pretreatment standard deadlines.

(D) Periodic compliance reports.

(E) Any report specifically required by the director.

(2) The following statement must be used to certify the applications and reports listed in Subsection (m)(1):

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate,

and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(n) Best management practice documentation. If the pretreatment standards require compliance with best management practices or a pollution prevention alternative, the industrial user shall submit documentation to the director demonstrating compliance with these requirements. The industrial user is required to submit the compliance documentation in the reports required by Sections 49-51(a), (b), (c), and (d) of this ordinance."

"SEC. 49-52 RECORDKEEPING

(a) An industrial user subject to the reporting requirements of this article shall retain (and make available for inspection and copying) all information obtained pursuant to 49-51(k)(3), independent of such requirements. Records documenting best management practices are specifically included in this recordkeeping requirement and must be maintained in accordance with this section.

(b) Records must include the following information:

- (1) The date, exact place, method, and time of sampling.
- (2) The name of each person who took the samples.
- (3) The dates the analysis was performed.
- (4) The name of each person who performed the analysis.
- (5) The analytical technique or method used.
- (6) The results of the analysis.

(c) These records must be retained and made available by an industrial user for a period of at least three years. This period will automatically be extended for the duration of any litigation concerning the industrial user or the city, or where the industrial user has been specifically notified of a longer retention period by the director.

(d) Any record submitted pursuant to Subsections (a) and (b) must be retained by the city for a period of at least three years. This period will automatically be extended for the duration of any litigation concerning the industrial user or the city, or where the city has notified the industrial user of a longer retention period. In addition, the city shall make all reports available for inspection and copying by the public. (Ord. 28084)

"SEC. 49-53. PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE.

The director shall annually publish, in the largest daily newspaper published in the city, a list of the industrial users who, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. (Ord. 28084)

"SEC. 49-54 REGULATION OF WASTES FROM OTHER JURISDICTIONS.

(a) Prior to contributing wastewater in the wastewater system, a municipality must enter into an interlocal agreement with the city.

(b) The director may request the following information from the contributing municipality:

(1) A description of the quality and volume of wastewater to be discharged to the wastewater system by the contributing municipality.

(2) An inventory of all industrial users located within the contributing municipality that will be discharging to the wastewater system.

(3) Any other information deemed necessary by the director."

"SEC. 49-55. EXTRAJURISDICTIONAL USERS.

(a) An extrajurisdictional user shall apply for a permit in accordance with this article as specified in Section 49-46(a) and (b) prior to discharging to the wastewater system.

(b) This section does not apply to extrajurisdictional users in jurisdictions that have an agreement with the city pursuant to Section 49-54.

(c) A wastewater discharge permit issued to an extrajurisdictional user must be in the form of a contract and include, at a minimum, the components found in Title 40, Code of Federal Regulations, Section 403.8(f)(1)(iii), as amended, and be approved by the city council. An extrajurisdictional user must agree to follow and be bound by the requirements of this article. (Ord. 28084)

"SEC. 49-55.1. INSPECTION CHAMBERS

(a) Chambers required. A person who discharges industrial waste into the wastewater system must provide, at his own expense, an inspection manhole or chamber in an accessible location on the premises from which the waste is discharged.

(b) Special requirements. An inspection manhole or chamber must be:

(1) near the outlet of each building lateral, sewer, drain, pipe, or channel that connects with the wastewater system;

(2) designed and constructed to prevent infiltration by ground and surface water;
and

(3) maintained so that a person may easily and safely measure the volume and obtain samples of the flow.

(c) Construction plans required. Before beginning construction of an inspection manhole or chamber, a person must submit plans to the director for review and approval to insure compliance with this section. Plans must include the wastewater metering device if one is to be installed. (Ord. Nos. 19201; 26925; 28084)

"SEC. 49-55.2. MEASUREMENT OF WASTE VOLUME.

(a) Metering devices. If a person who discharges industrial waste into the wastewater system installs and maintains in proper working condition a wastewater metering device of a type approved by the director, the actual wastewater flow from the premises will be the basis for computing charges for services.

(b) Measurements without a meter. On premises where water is obtained exclusively from the water system and no wastewater metering device is installed, the director shall compute the wastewater flow, for purposes of determining service charges, based on the water consumption during the previous month.

(c) Wastewater from private sources. On premises where all or part of the water is obtained from a source other than the water system and no wastewater metering device is installed, the owner shall provide and maintain a metering device, of a type approved by the director, to measure sources of private water.

(d) Estimated usage. If an activity on premises consumes water by evaporation, includes water in a product, or discharges water into a storm sewer, the owner may make application to the director for reduction in the volume of wastewater estimated to be discharged from the premises. The application must contain supporting data, including but not limited to a flow diagram showing the route and destination of the water supply and wastewater. (Ord. Nos. 19201;26925;28084)

"SEC. 49-55.3 INSPECTION AND SAMPLING.

(a) Inspection and sampling. The director shall inspect and sample each significant industrial user at least once each year. The director may, however, inspect and sample a significant industrial user more frequently. The inspection, surveillance, and monitoring must be independent of information received from the self-monitoring reports program. If a significant industrial user requires additional samples, the director may require the user to pay the cost of the additional service.

(b) Sample collection and analysis. Samples must be collected and analyzed in accordance with Sections 49-51(j) and (k). Self-monitoring, sampling, reporting, notification and

recordkeeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with Title 40, Code of Federal Regulations, Section 403.12(e)(2), as amended, or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, must be based on the applicable general pretreatment standards in Title 40, Code of Federal Regulations, Chapter 403, as amended, categorical pretreatment standards, local limits, and State and local law. A sample may be taken manually or by use of mechanical equipment.

(c) Submission of monitoring data. All significant industrial users shall submit all monitoring data of regulated pollutants that has been collected at the appropriate sampling location, in accordance with Section 49-51. Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with Title 40, Code of Federal Regulations, Section 403.12(e)(2), as amended, or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, must be based on the applicable general pretreatment standards in Title 40, Code of Federal Regulations, Chapter 403, as amended, categorical pretreatment standards, local limits, and State and local law.

(d) Accidental discharge/slug control plans. Within one year after an industrial user is designated as a significant industrial user, the director shall evaluate and determine whether the significant industrial user needs to develop, submit, and implement an accidental discharge/slug control plan. The director may also require any industrial user to develop, submit, and implement such a plan. Alternatively, the director may develop the plan for any industrial user. An accidental discharge/slug control plan must address, at a minimum, the following:

(1) A description of discharge practices, including non-routine batch discharges.

(2) A description of stored chemicals.

(3) Procedures for immediately notifying the director of any accidental or slug discharge, as required by Section 49-51(i).

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

(5) The results of the activities described in paragraphs (1) through (4) of this subsection shall be available to the approval authority upon request.

(e) Self-monitoring program. The director may, to the extent permitted by the EPA, delegate self-monitoring and reporting responsibilities to specific industrial waste discharge permittees, based upon the compliance history of a permittee and the volume and character of the waste discharge. Self-monitoring data from an industrial user must be submitted with accompanied chain-of-custody forms.

(f) Waiver of pollutant sampling.

(1) The city may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated, through sampling and other technical factors, that the pollutant is neither present nor expected to be present in the discharge, or, if present, is only present at background levels from intake water, without any increase in the pollutant due to activities of the industrial user.

(2) The authorization is subject to the following conditions:

(A) The pollutant is determined to be present solely due to sanitary wastewater discharged from the facility, provided that the sanitary wastewater:

(i) is not regulated by an applicable categorical standard; and

(ii) includes no process wastewater.

(B) The waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five years. The industrial user must submit a new request for a waiver when a subsequent individual wastewater discharge permit is granted.

(C) The industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility. The process wastewater sample must be representative of wastewater from all processes.

(D) The request for a waiver must be signed in accordance with Section 49-1(5) and include the following certification statement:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report.

(E) Non-detectable sample results may be used as a demonstration that a pollutant is not present if the EPA-approved method from Title 40, Code of Federal Regulations, Part 136, as amended, with the lowest minimum detection level for that pollutant was used in the analysis.

(F) Any waiver by the director must be included as a condition in the industrial user's permit, including the requirement of Section 49-51(k)(3). The reasons supporting the waiver and any information submitted by the industrial user in its request for the waiver must be maintained by the director for a period of three years after the expiration of the waiver.

(G) The industrial user must certify that there has been no increase of the pollutant in its wastestream due to its activities. The certification must appear on all future reports, along with the statement in Section 49-51(m).

(H) In the event that a waived pollutant is found to be present or is expected to be present based on changes occurring in the industrial user's operations, the industrial user must immediately:

(i) comply with the sampling requirements of Section 49-51 (d) or other more frequent sampling requirements imposed by the director; and

(ii) notify the director.

(3) This subsection does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise provided in the categorical pretreatment standards."

"SEC. 49-55.4 CONFIDENTIALITY.

(a) Confidential information. An industrial user who asserts the trade secret exception to disclosure under Chapter 552 of the Texas Government Code (the Public Information Act) and Title 40, Code of Federal Regulations, Part 2, as amended, must clearly mark or stamp the words "confidential business information" on each page that contains proprietary information at the time the information is submitted to the city. If no claim is made at the time of submission, the city shall make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in Title 40, Code of Federal Regulations, Part 2, as amended.

(b) Effluent data. Information and data provided to the city under Subsection (a) of this section that is effluent data will be available to the public without restriction.

(c) All other information. All other information submitted to the city is available to the public in accordance with state and federal law. (Ord. 28084)

"SEC. 49-55.5 WASTE MANAGEMENT OPERATORS.

(a) General requirements. A person who is a waste management operator and discharges industrial waste into the wastewater system must:

- (1) discharge only at points in the wastewater system designated by the director;
- (2) install and maintain an accurate wastewater metering device, or provide for accurate flow estimates in a manner as required by the director;
- (3) compensate the city for the full cost of all sample collection and laboratory analyses for the purpose of monitoring and maintaining control of the discharge of industrial waste into the wastewater system, or implement a self-monitoring and reporting program approved by the director;
- (4) maintain accurate records, available to the director upon request, showing:
 - (A) the volume of industrial waste discharged;
 - (B) the dates of receipt and disposal of industrial waste;
 - (C) the type of waste discharged; and
 - (D) the names and addresses of producers and haulers of all waste being processed; and
- (5) comply with all applicable federal, state, and local laws and regulations. (Ord. Nos. 19201; 20215; 21409; 26925; 28084)

"SEC. 49-55.6. POLLUTION OF WATER IN RESERVOIRS.

(a) Activities constituting offense. A person commits an offense if he conducts any of the following activities in a city reservoir:

- (1) Bathing.
- (2) Throwing, depositing, or discharging urine, excrement, trash, garbage, toxic or otherwise hazardous substances, or other pollutants.
- (3) Causing some other nuisance upon or in the city reservoir. (Ord. Nos. 19201;26925;28084)

"SEC. 49-55.7. DEPOSIT OR DISCHARGE OF CERTAIN MATERIAL INTO WASTEWATER SYSTEM OR STORM-SEWER.

(a) Illegal discharges. A person commits an offense if he:

- (1) deposits garbage, dead animals, trash, articles, or other substances tending to obstruct the flow of wastewater, into a manhole, cleanout, or other opening;
- (2) discharges industrial waste into a storm sewer or storm drain;
- (3) discharges normal domestic wastewater into a storm sewer or storm drain; or

(4) discharges storm water collected from a storm sewer or storm drain into the wastewater system.

(b) Gutter connections. A person commits an offense if he connects a private gutter, rainwater conductor, privy, or cistern to a part of the wastewater system. (Ord. Nos. 19201; 26925; 28084)