

## TITLE V: PUBLIC WORKS

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## CHAPTER 50: SOLID WASTE

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### § 50.01 DEFINITIONS.

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

**CONTRACTOR.** Any person with whom the city has contracted for the collection, conveyance, and disposal of solid waste within the city.

**DESIGNATED STREET or ALLEY.** The public street or alley adjacent to any premises within the city which has been designated by the city or its contractor as the street or alley on which solid waste generated on such premises is to be placed for collection.

**GARBAGE.** Dry kitchen refuse (which shall mean the solids after the liquids have been drained off), all meat, vegetable, and fruit refuse, small dead animals and dead fowl, and small quantities of incidental rubbish or trash typically included in household waste.

**HEAVY REFUSE.** Any metal rubbish other than small quantities of incidental metal rubbish (other than small quantities of incidental metal rubbish typically included among kitchen and household garbage) and any wood or wood products other than those defined below as untreated wood products.

**RUBBISH.** Tin cans, bottles, glass, scraps of iron, tin, wire, or any other metal.

**SOLID WASTE.** All garbage, heavy refuse, rubbish, trash, and untreated wood products, as defined herein, generated on any premises within the city.

**TRASH.** Paper of all kinds, rags, old clothing, paper containers, old rubber, pieces of wood, boxes, barrels, crates, feathers, weeds, grass, and/or tree limbs.

**UNTREATED WOOD PRODUCTS.** Any and all raw, untreated wood products or pulpy vegetation, including but not limited to raw lumber, tree limbs, and brush-like vegetation.

(Ord. 1770, passed 7- -94)

#### § 50.02 COLLECTION OF SOLID WASTE.

All solid waste accumulated in the city shall be collected, conveyed, and disposed of by the city or its contractor and it shall be unlawful for any person to convey for hire over any public street or alley in the city any solid waste generated on any premises not owned or occupied by such person as the principal residence or place of business of such person. (Ord. 1770, passed 7- -94) Penalty, see § 10.99

#### § 50.03 ACCUMULATION AND STORAGE.

(A) It shall be unlawful for the owner or occupant of any premises in the city to accumulate solid waste thereon so as to produce an unsightly or ugly appearance or which may harbor reptiles or rodents, create a fire hazard, or result in unsanitary conditions.

(B) All solid waste accumulated within any dwelling or other building located on any premises in the city shall be stored by the owner or occupant of such premises in a sanitary container.

(C) All solid waste stored outside of any dwelling or other building located on any premises in the city shall be stored by the owner or occupant of such premises in a container furnished for such purpose by the city or its contractor and at a location other than within the easement or right-of-way of any public street or alley adjacent to such premises.

(Ord. 1770, passed 7- -94) Penalty, see § 10.99

#### § 50.04 PLACEMENT FOR COLLECTION.

(A) It shall be unlawful for any person to place or maintain any solid waste on or adjacent to any public street or alley in the city except in compliance with the provisions of divisions (B), (C) and (D) of this section. In any prosecution under this section in the Municipal Court of the city or any other court of competent jurisdiction, proof that any solid waste was placed or maintained in violation of any provisions of this section shall be prima facie proof that the same was so placed or maintained by the owner or occupant of:

- (1) The premises where it is so placed or maintained; or
- (2) The premises immediately adjacent to the location on the street or alley on which it was so placed or maintained.

(B) All solid waste must be placed for collection in that portion of the easement or right-of-way of the designated street or alley not used for vehicular travel.

(C) All garbage placed for collection must be enclosed in a container furnished by the city or its contractor for such purpose, such container may not be placed in the easement or right-of-way of the designated street or alley before 6:00 p.m. of the day preceding the day designated by the city or its contractor as the day on which garbage shall be collected and all such containers must be removed from such easement or right-of-way no later than 8:00 a.m. of the day following such designated day.

(D) Additional rules for the placement of waste for collection:

(1) Refuse, rubbish, trash and untreated wood may not be placed in the easement or right-of-way of any street. All untreated wood products must be cut into pieces of not more than five feet in length.

(2) Only waste connections polycarts may be used.

(3) Polycarts must be placed so that there is a three foot clearance on all sides.

(4) No more than two cubic yards of debris of any kind may be placed at the street. If more than two cubic yards is placed in the street, the resident will be charged for the excess on the water bill at the rate per yard defined by the city's contract with waste connections. Any debris of any kind placed at the street between Wednesday and Friday will be picked up and the water account for the property from which it is removed will be billed 100% of the cost of the removal at the rate defined by the contract with waste connections.

(5) Tree limbs and debris must be cut to five foot lengths.

(6) Stumps and bagged debris must weigh less than 50 pounds.

(7) Property owners are responsible for any outstanding balance for all charges on a water account for their property, whether such account is in the owner's name or the name of a tenant or lessee. No water account will be opened at that property until such balance is paid in full.

(Ord. 1770, passed 7- -94; Am. Ord. 2016-2105, passed 2-16-16) Penalty, see § 10.99

#### § 50.05 AFFIRMATIVE DEFENSE.

In any prosecution in the Municipal Court of the city or any other court of competent jurisdiction, it shall be an affirmative defense to a violation of any subsection of this chapter if:

(A) The person conveying such solid waste is engaged in the business of constructing new improve- ments or repairing or replacing improvements already located on the premises in question pursuant to a permit duly issued by the Building Official of the city and any solid waste generated thereby is accumulated, stored, collected, conveyed, and disposed of in accordance with written instructions there for issued by the City Manager or the contractor; or

(B) The premises in question is not located in an area of the city which has been designated by the current comprehensive zoning ordinance and map of the city for single-family dwellings only and all solid waste generated on such premises is accumulated, stored, collected, conveyed, and disposed of in accordance with the written instructions therefor issued by the City Manager or the contractor.

(Ord. 1770, passed 7- -94)

Cross-reference:

Zoning code, see Ch. 155

#### § 50.06 GARBAGE COLLECTION AND DISPOSAL RATES.

The following charges and rates shall be made and collected by the city for solid waste collection:

(A) Residential: \$25.25 per month for a residential size cart and the collection and disposal of solid waste in such cart at each family unit within the city and \$14.37 per month for each additional cart at the same family unit. FAMILY UNIT shall be construed to mean any one-family residence or apartment, or any other one-family dwelling.

(B) Commercial or business: \$25.25 per cart for the collection and disposal of solid waste stored in each residential size container at a commercial or business location within the city. The charge for each additional container at such location shall be \$14.37 per month.

('68 Code, § 37-21) (Ord. 1144, passed 9-11-67; Am. Ord. 1293, passed 9-16-74; Am. Ord. 1306, passed 9-8-75; Am. Ord. 1584, passed 7-16-84; Am. Ord. 2001-1918, passed 1-8-01; Am. Ord. 2006-2148, passed 11-20-06; Am. Ord. 2007-2180, passed 11-5-07; Am. Ord. 2016-2105, passed 2-16-16; Am. Ord. 2019-2576, passed 6-17-19)

## CHAPTER 51: SEWERS

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## GENERAL PROVISIONS

### § 51.001 PURPOSE AND POLICY.

(A) This chapter sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the city, and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). This chapter shall apply to all users of the POTW. This chapter authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(B) The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;

(2) To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

(3) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;

(4) To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;

(Ord. 1796, passed 2-26-96)

§ 51.002 DEFINITIONS.

(A) Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

ACT or "the ACT." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

APPLICABLE PRETREATMENT STANDARDS. For any specified pollutant, city prohibitive standards, city specific pretreatment standards (local limits), state of Texas pretreatment standards, or EPA's Categorical Pretreatment Standards, whichever standard is appropriate or most stringent.

APPROVAL AUTHORITY. U.S. EPA Region 6 Administrator.

AUTHORIZED REPRESENTATIVE OF THE USER.

(1) If the user is a corporation:

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

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

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

(3) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her agent;

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

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 200 C°, usually expressed as a concentration [milligrams per liter (mg/L)].

CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARD. Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Act (33 USC 1317 which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

CATEGORICAL USER. A user covered by one of EPA's Categorical Pretreatment Standards.

CITY. The City of Freeport, Texas, or the City Council of Freeport, Texas.

**COOLING WATER/NON-CONTACT COOLING WATER.** Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Cooling water may be generated from any use, such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.

**COLOR.** The optical density at the visual wave length of maximum absorption, relative to distilled water. One-hundred percent transmittance is equivalent to zero optical density.

**COMPOSITE SAMPLE.** The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

**DOMESTIC USER (RESIDENTIAL USER).** Any person who contributes, causes, or allows the contribution of wastewater into the Freeport POTW that is of a similar volume and/or chemical make-up as that of a residential dwelling unit. Discharges from a residential dwelling unit typically include up to 100 gallons per capita per day, 0.2 pounds of BOD per capita, and 0.17 pounds of TSS per capita.

**ENVIRONMENTAL PROTECTION AGENCY (EPA).** The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

**EXISTING SOURCE.** For a categorical industrial user, an EXISTING SOURCE is any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

**EXISTING USER.** For non-categorical users an EXISTING USER is defined as any user which is discharging wastewater prior to the effective date of this chapter.

**GRAB SAMPLE.** A sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.

**INDIRECT DISCHARGE or DISCHARGE.** The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.

**INTERFERENCE.** A discharge which alone or in conjunction with a discharge or discharges from other sources, either:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations;
- (2) Inhibits or disrupts its sludge processes, use or disposal; or
- (3) Is a cause of a violation of the city's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder or more stringent state or local regulations: Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

**MAXIMUM ALLOWABLE DISCHARGE LIMIT.** The maximum concentration or loading 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.

**MEDICAL WASTES.** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

**NEW SOURCE.**

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

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

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

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

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

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

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

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

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

**NEW USER.** A NEW USER is not a “new- source” and is defined as a user that applies to the city for a new building permit or any person who occupies an existing building and plans to discharge wastewater to the city’s collection system after the effective date of this chapter. Any person that buys an existing facility that is discharging non-domestic wastewater will be considered an “existing user” if no significant changes are made in the manufacturing operation.

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

**PERMITTEE.** A person or user issued a waste-water discharge permit.

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

**pH.** A measure of the acidity or alkalinity of a substance, expressed in standard pH units.

**POLLUTANT.** Any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor].

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

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

**PRETREATMENT STANDARDS or STANDARDS.** Prohibited discharge standards, categorical pretreatment standards, and local limits established by the city.

**PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES.** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 51.010.

**PUBLICLY OWNED TREATMENT WORKS (POTW).** A "treatment works," as defined by Section 212 of the Act (33 USC 1292) which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means the city.

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

**SEWAGE.** Human excrement and gray water (household showers, dishwashing operations, etc.)

**SEWER.** Any pipe, conduit ditch, or other device used to collect and transport sewage from the generating source.

**SHALL, MAY.** "Shall" is mandatory, "may" is permissive.

**SIGNIFICANT INDUSTRIAL USER.**

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:

(a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown wastewater); or

(b) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

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

**SLUG LOAD.** Any discharge at a flow rate or concentration which could cause a violation of the discharge standards in §§ 51.010 through 51.013 or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

**STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE.** A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

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

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

**TOXIC POLLUTANT.** One of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by EPA under Section 307 (33 U.S.C. 1317) of the Act.

**TREATMENT PLANT EFFLUENT.** The discharge from the POTW into waters of the United States.

**USER or INDUSTRIAL USER.** A source of indirect discharge. The source shall not include "domestic user" as defined herein.

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

**WASTEWATER DISCHARGE PERMIT (DISCHARGE PERMIT).** An authorization or equivalent control document issued by the city to users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this chapter.

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

(B) Abbreviations. The following abbreviations shall have the designated meanings:

ASPP - Accidental Spill and Slug Discharge Prevention Plan

BOD - Biochemical Oxygen Demand

CFR - Code of Federal Regulations  
COD - Chemical Oxygen Demand  
EPA - U.S. Environmental Protection Agency  
gpd - gallons per day  
L - liter  
LEL - Lower Explosive Limit  
mg - milligrams  
mg/L - milligrams per liter  
NPDES - National Pollutant Discharge Elimination System  
O&M - Operation and Maintenance  
POTW - Publicly Owned Treatment Works  
RCRA - Resource Conservation and Recovery Act  
SIC - Standard Industrial Classifications  
SWDA - Solid Waste Disposal Act (42 USC 6901 et seq.)  
TSS - Total Suspended Solids  
USC - United States Code  
(Ord. 1796, passed 2-26-96)

## GENERAL REQUIREMENTS

### § 51.010 PROHIBITED DISCHARGE STANDARDS.

(A) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

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

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;

(2) Wastewater having a pH less than 5.0 or more than 10.5, or otherwise causing corrosive structural damage to the POTW or equipment;

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than ½ in any dimension;

(4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C) unless the approval authority, upon the request of the POTW, approves alternate temperature limits;

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

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

(8) Trucked or hauled pollutants, except at discharge points designated by the city;

(9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit.

(11) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the city in compliance with applicable state or federal regulations;

(12) Storm water, surface water, ground water, artesian well water, roof runoff drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the city;

(13) Any sludges, screenings, or other residues from the pretreatment of industrial wastes or from industrial processes;

(14) Medical wastes, except as specifically authorized by the city;

(15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

(16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

(17) Any liquid, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion meter, at the point of discharge into the system (or at any point in the system), be more than 5% nor any single reading over 10% of the lower explosive limit (LEL) of the meter;

(18) Grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;

(19) Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits;

(20) Any wastewater, which in the opinion of the city can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under special agreement by the city, (except that no special waiver shall be given from categorical pretreatment standards);

(21) The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septage, or other wastewater unless

said person has first obtained testing and approval as may be generally required by the city and paid eyed for the privilege of said discharge;

(22) Any hazardous wastes as defined in rules published by the state or in EPA rules 40 CFR Part 261;

(23) Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA);

(24) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(Ord. 1796, passed 2-26-96)

#### § 51.011 FEDERAL CATEGORICAL PRETREATMENT STANDARDS.

The national categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

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

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

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

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

(Ord. 1796, passed 2-26-96)

#### § 51.012 STATE REQUIREMENTS.

State requirements and limitations on discharges to the POTW shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this chapter or other applicable ordinance or provision of this code.

(Ord. 1796, passed 2-26-96)

#### § 51.013 LOCAL NUMERICAL SPECIFIC POLLUTANT LIMITS.

(A) The following pollutant limits are established to protect against pass through and interference of the city's wastewater treatment plant. No person shall discharge wastewater containing pollutants in excess of the following instantaneous maximum pollutant concentrations listed in division (D) of this section unless authorized by wastewater discharge permits issued by the city. These limits apply at the point where the wastewater enters the city's sewer collection system (end-of-pipe). All concentrations for metallic substances are for "Total Metals" unless indicated otherwise.

(B) Users required to obtain wastewater discharge permits shall receive mass allocations of the maximum allowable headworks loading for each known or suspected pollutants in the treated or untreated wastestream based on the treatment capacity of the city's wastewater treatment plant. The city shall reserve sufficient treatment capacity for residential and commercial users of the city's sewer system and shall allocate a proportion of the remaining treatment capacity to the industrial users of the system. The city shall make pollutant allocations based on mass. The Pretreatment Coordinator shall determine the mass allocation for permitted industrial users in accordance with the Industrial Pretreatment Implementation Procedures.

(C) Conventional pollutants, biochemical oxygen demand (BOD) and total suspended solids (TSS), and non-conventional pollutants (organic compounds and unlisted metals) may be regulated by wastewater discharge permit if the user has the potential, either by volume and/or concentration, to cause pass through or inhibition at the city wastewater treatment plant, reduction in biosolids quality, or creates a health or safety risk. Permit limits for these pollutants may be based on concentration or mass.

(D) Maximum pollutant concentrations.

Pollutants (Total Metals)	Maximum Concentration (mg/l)
Arsenic (As)	0.73
Cadmium (Cd)	1.36
Chromium (Cr)	1.64
Copper (Cu)	0.42
Cyanide (Cn)	0.06
Lead (Pb)	1.27
Mercury (Hg)	0.05
Nickel (Ni)	0.46
Selenium (Se)	3.74
Silver (Ag)	0.09
Zinc (Zn)	2.41

(E) Where a user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply. (Ord. 1796, passed 2-26-96)

#### § 51.014 CITY'S RIGHT OF REVISION.

The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW. (Ord. 1796, passed 2-26-96)

#### § 51.015 SPECIAL AGREEMENT.

The city reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a categorical pretreatment standard or federal pretreatment requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from the Approval Authority in accordance with 403.13. (Ord. 1796, passed 2-26-96)

#### § 51.016 DILUTION.

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The city may impose mass limitations on users which he believes may be using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate. (Ord. 1796, passed 2-26-96)

#### § 51.017 PRETREATMENT FACILITIES.

Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all applicable pretreatment standards and requirements set out in this chapter within the time limitations specified by the EPA, the state, or the city, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the city under the provisions of this chapter. (Ord. 1796, passed 2-26-96)

#### § 51.018 DEADLINE FOR COMPLIANCE WITH APPLICABLE PRETREATMENT REQUIREMENTS.

(A) Existing users. Compliance by existing users covered by categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified in the appropriate standard. The city shall establish a final compliance deadline date for any existing user not covered by categorical pretreatment standards or for any categorical user when the local limits for said user are more restrictive than EPA's categorical pretreatment standards.

(B) New users. New source dischargers and "new users" are required to comply with applicable pretreatment standards within the shortest feasible time (not to exceed 90 days from the beginning of discharge). New sources and "new users" shall install and have in



operating condition, and shall “start-up” all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

(C) Any wastewater discharge permit issued to a categorical user shall not contain a compliance date beyond any deadline date established in EPA's categorical pretreatment standards. Any other existing user or a categorical user that must comply with a more stringent local limit, which is in non-compliance with any local limits shall be provided with a compliance schedule placed in an industrial wastewater permit to insure compliance within the shortest time feasible.

(Ord. 1796, passed 2-26-96)

#### § 51.019 ADDITIONAL PRETREATMENT MEASURES.

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

(B) Grease, oil, and sand interceptors shall be provided when, in the opinion of the city, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the city and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at his expense.

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

(Ord. 1796, passed 2-26-96)

#### § 51.020 ACCIDENTAL DISCHARGE; SLUG CONTROL PLANS.

(A) The city may require any user to develop and implement an accidental discharge/slugs control plan. Where deemed necessary by the city, facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the user's cost and expense. An accidental spill prevention plan/slugs control plan showing facilities and operating procedures to provide this protection shall be submitted to the city for review and approval before implementation.

(B) The city shall determine which user is required to develop a plan and require said plan to be submitted within 90 days after notification by the city. Each user shall implement its ASPP as submitted or as modified after such plan has been reviewed and approved by the city. Review and approval of such plans and operating procedures by the city shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of this section.

(C) Any user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge; which would violate any of the standards in §§ 51.010 through 51.013; and

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

(D) Users shall notify the city wastewater treatment plant immediately upon the occurrence of a “slug” or “accidental discharge” of substances regulated by this chapter. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected user shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the city on account thereof under state or federal law.

(E) Within five days following an accidental discharge, the user shall submit to the city a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any others to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law.

(F) Signs shall be permanently posted in conspicuous places on the user's premises advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

(Ord. 1796, passed 2-26-96)

#### § 51.021 SEPTIC TANK WASTES.

(A) Septic tank waste may be introduced into the POTW only at a designated receiving structure within the treatment plant area, and at such times as are established by the city. Such wastes shall not violate this section or any other requirements established or adopted by the city. Wastewater discharge permits for individual vehicles to use such facilities shall be issued by the city.

(B) Septage haulers may only discharge loads at locations specifically designated by the city. No load may be discharged without prior consent of the city. The city may collect samples of each hauled load to ensure compliance with applicable pretreatment standards. The city may require the hauler to provide a waste analysis of any load prior to discharge.

(C) Septage haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, sources of waste, and volume and characteristics of waste.

(D) Fees for dumping hauled wastes will be established under separate resolution by the City Council.

(Ord. 1796, passed 2-26-96)

## WASTEWATER DISCHARGE PERMIT REQUIREMENTS

### § 51.040 PERMIT REQUIRED.

No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the city. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law. The city may require other users, including liquid waste haulers, to obtain wastewater discharge permits (as necessary) to carry out the purposes of this chapter.

(Ord. 1796, passed 2-26-96)

### § 51.041 EXISTING SIGNIFICANT INDUSTRIAL USER.

Any SIU that was discharging wastewater into the POTW prior to the effective date of this chapter and that wishes to continue such discharges in the future shall, within 60 days after notification by the city submit a permit application to the city in accordance with § 51.044; and shall not cause or allow discharges to the POTW to continue after 180 days of the effective date of this chapter except in accordance with a wastewater discharge permit issued by the city.

(Ord. 1796, passed 2-26-96)

### § 51.042 NEW SOURCE AND NEW USER.

At least 90 days prior to the anticipated start-up, new sources, sources that become a user subsequent to the promulgation of an applicable categorical pretreatment standard, and “new users” considered by the city to fit the definition of SIU, shall apply for a wastewater discharge permit and will be required to submit to the city at least the information listed in § 51.044. A new source or “new user” cannot discharge without first receiving a wastewater discharge permit from the city. New sources and “new users” shall also be required to include in their application information on the method of pretreatment the user intends to use to meet applicable pretreatment standards. New sources and “new users” shall give estimates of the information requested in § 51.044(D) and (E).

(Ord. 1796, passed 2-26-96)

### § 51.043 EXTRAJURISDICTIONAL USERS.

Any existing user located beyond the city limits required to obtain a wastewater discharge permit shall submit a wastewater discharge permit application as outlined in § 51.041. New source and “new users” located beyond the city limits required to obtain a wastewater discharge permit shall comply with § 51.042.

(Ord. 1796, passed 2-26-96)

#### § 51.044 PERMIT APPLICATION CONTENTS.

All users required to obtain a wastewater discharge permit must submit, at a minimum, the following information. The city shall approve a form to be used as a permit application. Categorical users submitting the following information shall have complied with 40 CFR 403.12(b). Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(A) Identifying information. The user shall submit the name and address of the facility including the name of the operator and owners.

(B) Permits. The user shall submit a list of any environmental control permits held by or for the facility;

(C) Description of operations. The user shall submit a brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such industrial user, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW; number and type of employees; hours of operation; each product produced by type, amount, process or processes, and rate of production; type and amount of raw materials processed (average and maximum per day) and the time and duration of discharges. This description should also include a schematic process diagram which indicates points of discharge to the POTW from the regulated or manufacturing processes. Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.

(D) Flow measurement. The city may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

(1) Categorical user. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

(a) Regulated or manufacturing process streams; and

(b) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e).

(2) Non-categorical user. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following: total process flow, wastewater treatment plant flow, total plant flow or individual manufacturing process flow as required by the, city.

(E) Measurements of pollutants.

(1) Categorical user.

(a) The user shall identify the applicable pretreatment standards for each regulated or manufacturing process.

(b) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass) where required by the categorical pretreatment standard or as required by the city of regulated pollutants (including standards contained in §§ 51.010 through 51.013, as appropriate) in the discharge from each regulated or manufacturing process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in §§ 51.100 through 51.102.

(c) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this division.

(d) Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) for a categorical user covered by a categorical pretreatment standard this adjusted limit along with supporting data shall be submitted as part of the application.

(2) Non-categorical user.

(a) The user shall identify the applicable pretreatment standards for its wastewater discharge.

(b) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration, or mass where required by the city, of regulated pollutants contained in § 51.010 through 51.013, as appropriate in the discharge. Both daily maximum and average concentration, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in §§ 51.100 through 51.102.

(c) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this division.

(d) Where the city developed alternate concentration or mass limits because of dilution this adjusted limit along with supporting data shall be submitted as part of the application.

(F) Certification. A statement, reviewed by an authorized representative of the user and certified by a qualified professional as outlined in § 51.045, indicating whether the applicable pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet the applicable pretreatment standards and requirements;

(G) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the applicable pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The user's schedule shall conform with the requirements of § 51.073. The completion date in this schedule shall not be later than the compliance date established pursuant to § 51.018.

(1) Where the user's categorical pretreatment standard has been modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) at the time the user submits the report required by this division, the information required by divisions (F) and (G) of this section shall pertain to the modified limits.

(2) If the categorical pretreatment standard is modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) after the user submits the report required by divisions (F) and (G) of this section shall be submitted by the user within 60 days after the modified limit is approved.

(H) Other information. Any other information as may be deemed necessary by the city to evaluate the wastewater discharge permit application.

(Ord. 1796, passed 2-26-96)

§ 51.045 SIGNATORY AND CERTIFICATION REQUIREMENT.

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the 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."

(Ord. 1796, passed 2-26-96)

#### § 51.046 PERMIT DECISIONS.

The city will evaluate the data furnished by the user and may require additional information. Within 30 days of receipt of a complete wastewater discharge permit application, the city will determine whether or not to issue a wastewater discharge permit. Upon a determination to issue, the permit shall be issued within 30 days of full evaluation and acceptance of the data furnished. The city may deny any application for a wastewater discharge permit.

(Ord. 1796, passed 2-26-96)

#### § 51.047 PERMIT CONTENTS.

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

(B) Wastewater discharge permits must contain the following conditions:

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

(2) A statement that the wastewater discharge permit is non-transferable without prior notification to, and approval from the city, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Applicable pretreatment standards and requirements, including any special state requirements;

(4) Self monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

(5) Requirement for immediate notification to the city where self-monitoring results indicate non-compliance;

(6) Requirement to report a by-pass or upset of a pretreatment facility;

(7) Requirement for the SIU who reports non-compliance to repeat the sampling and analysis and submit results to the city within 30 days after becoming aware of the violation; and

(8) A statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule.

(C) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

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

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

(5) The unit charge or schedule of user charges and fees for the management of the waste- water discharged to the POTW;

(6) Requirements for installation and main- tenance of inspection and sampling facilities and equipment;

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

(8) Any special agreements the city chooses to continue or develop between the city and user; and

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

(Ord. 1796, passed 2-26-96)

#### § 51.048 APPEALS.

(A) Any person, including the user, may petition the city to reconsider the terms of a wastewater discharge permit within 30 days of its issuance.

(B) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(C) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(D) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(E) If the city fails to act within 60 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a

wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.

(F) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the District Court for Brazoria County within 30 days.

(Ord. 1796, passed 2-26-96)

#### § 51.049 PERMIT DURATION.

Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the city. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(Ord. 1796, passed 2-26-96)

#### § 51.050 PERMIT MODIFICATION.

The city may modify the wastewater discharge permit for good cause including, but not limited to, the following:

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

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

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

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

(E) Violation of any terms or conditions of the wastewater discharge permit;

(F) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(G) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(H) To correct typographical or other errors in the wastewater discharge permit; or

(I) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

(Ord. 1796, passed 2-26-96)

#### § 51.051 TRANSFER OF PERMIT.

(A) Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least 60 days advance notice to the city and the city approves the wastewater discharge permit transfer. The notice to the city must include a written certification by the new owner and/or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;



- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

(B) Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable as of the date of facility transfer. Provided that the above occurs and that there were no significant changes to the manufacturing operation or wastewater discharge, the new owner will be considered an existing user and be covered by the existing limits and requirements in the previous owner's permit.

(Ord. 1796, passed 2-26-96)

#### § 51.052 PERMIT REVOCATION.

(A) Wastewater discharge permits may be revoked for, but not limited to, the following reasons:

- (1) Failure to notify the city of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the city of changed conditions;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the city timely access to the facility premises and records;
- (7) Failure to meet discharge limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (12) Failure to provide advance notice of the transfer of a permitted facility;
- (13) If the city has to invoke its emergency provision as cited in § 51.136; or
- (14) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

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

(Ord. 1796, passed 2-26-96)

#### § 51.053 PERMIT REISSUANCE.

A user, required to have a wastewater discharge permit, shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application, in accordance with § 51.044, a minimum of 90 days prior to the expiration of the user's existing wastewater discharge permit. A user, whose existing wastewater discharge permit has expired and has submitted its re-application in the time period

specified he shall be deemed to have an effective wastewater discharge permit until the city issues or denies the new wastewater discharge permit. A user, whose existing wastewater discharge permit has expired and who failed to submit its re-application in the time period specified herein, will be deemed to be discharging without a wastewater discharge permit. (Ord. 1796, passed 2-26-96)

## REPORTING REQUIREMENTS

### § 51.070 BASELINE MONITORING REPORTS.

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

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

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

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

(3) Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(5) Measurement of pollutants.

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

(b) The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the city) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in §§ 51.100 through 51.102.

(c) Sampling must be performed in accordance with procedures set out in §§ 51.100 through 51.102.

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

(7) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 51.073.

(8) Signature and certification. All baseline monitoring reports must be signed and certified in accordance with § 51.045.  
(Ord. 1796, passed 2-26-96)

#### § 51.071 FINAL COMPLIANCE REPORT.

(A) Within 90 days following the date for final compliance by the significant industrial user with applicable pretreatment standards and requirements set forth in this chapter, in a wastewater discharge permit, or within 30 days following commencement of the introduction of wastewater into the POTW by a new source or "new users" considered by the city to fit the definition of SIU, the affected user shall submit to the city a report containing the information outlined in § 51.044(D) through (F).

(B) For users subject to equivalent mass or concentration limits established by the city in accordance with procedures established in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the users's actual production during the appropriate sampling period.

(Ord. 1796, passed 2-26-96)

#### § 51.072 PERIODIC COMPLIANCE REPORT.

(A) Any user that is required to have an industrial waste discharge permit and performs self-monitoring shall submit to the city during the months of June and December, unless required on other dates or more frequently by the city, a report indicating the nature of the effluent over the previous reporting period. The frequency of monitoring shall be as prescribed within the industrial waste discharge permit. At a minimum, users shall sample their industrial waste discharge permit. At a minimum, users shall sample their discharge at least twice per year.

(B) The report shall include a record of the concentrations (and mass if specified in the waste- water discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations, and shall also include any additional information required by this chapter or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average

concentration (or mass, where required) shall be reported. If a user sampled and analyzed more frequently than what was required by the city or by this chapter, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge during the reporting period.

(C) Any user subject to equivalent mass or concentration limits established by the city or by unit production limits specified in the applicable categorical standards, shall report production data as outlined in § 51.071(B).

(D) If the city calculated limits to factor out dilution flows or non-regulated flows, the user will be responsible for providing flows from the regulated process flows, dilution flows and non-regulated flows.

(E) Flows shall be reported on the basis of actual measurement; provided, however, that the city may accept reports of average and maximum flows estimated by verifiable techniques if the city determines that an actual measurement is not feasible.

(F) Sampling shall be representative of the user's daily operations and shall be taken in accordance with the requirements specified in §§ 51.100 through 51.102.

(G) The city may require reporting by users that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent or determine any other factor which is related to the operation and maintenance of the sewer system.

(H) The city may require self-monitoring by the user or, if requested by the user, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this section. If the city agrees to perform such periodic compliance monitoring, it may charge the user for such monitoring, based upon the costs incurred by the city for the sampling and analyses. Any such charges shall be added to the normal sewer charge and shall be payable as part of the sewer bills. The city is under no obligation to perform periodic compliance monitoring for a user.

(Ord. 1796, passed 2-26-96)

#### § 51.073 COMPLIANCE, SCHEDULES FOR MEETING APPLICABLE PRETREATMENT STANDARDS.

(A) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(B) No increment referred to in division (A) of this section shall exceed nine months.

(C) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the city including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports.

(Ord. 1796, passed 2-26-96)

§ 51.074 NOTIFICATION OF SIGNIFICANT PRODUCTION CHANGES.

Any user operating under a wastewater discharge permit incorporating equivalent mass or concentration limits shall notify the city within two business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not providing a notice of such anticipated change will be required to comply with the existing limits contained in its wastewater discharge permit.

(Ord. 1796, passed 2-26-96)

§ 51.075 HAZARDOUS WASTE NOTIFICATION.

(A) Any user that is discharging 15 kilograms of hazardous wastes as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) is required provide a one time notification in writing to the city, EPA Regional Waste Management Division Director, and the Texas Natural Resource Conservation Commission (TNRCC) Hazardous Waste Division. Any existing user exempt from this notification, shall comply with the requirements contained herein within 30 days of becoming aware of a discharge of 15 kilograms of hazardous wastes in a calendar month or the discharge of acutely hazardous wastes to the city sewer system. Such notification shall include:

- (1) The name of the hazardous waste as set forth in 40 CFR Part 261;
- (2) The EPA Hazardous waste number;
- (3) The type of discharge (continuous, batch, or other);

(4) If an industrial user discharges more than 100 kilograms of such waste per calendar per month to the sewer system, the notification shall also contain the following information to the extent it is known or readily available to the industrial user:

- (a) An identification of the hazardous constituents contained in the wastes;
- (b) An estimation of the mass and concentration of such constituents in the wastestreams discharged during that calendar month; and
- (c) An estimation of the mass of constituents in the wastestreams expected to be discharged during the following 12 months.

(B) These notification requirements do not apply to pollutants already reported under the self-monitoring requirements. Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a user shall notify the city of the discharge of such a substance within 90 days of the effective date of such regulations. In the case of any notification made under this division, an 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.

(Ord. 1796, passed 2-26-96)

§ 51.076 NOTICE OF POTENTIAL PROBLEMS; ACCIDENTAL SPILLS AND SLUG DISCHARGES.

Any user shall notify the city immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined in § 51.002. The notification shall include the concentration and volume and corrective action. Steps being taken to reduce any adverse impact should also be noted during the notification. Any user who discharges a “slug” (or slugs) of pollutants shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the city under state or federal law. (Ord. 1796, passed 2-26-96)

#### § 51.077 NON-COMPLIANCE REPORTING.

(A) If sampling performed by a user indicates a violation, the user shall notify the city within 24 hours of becoming aware of the violation.

(B) The user shall also repeat the sampling within five days and submit the results of the repeat analysis to the city within 30 days after becoming aware of the violation, except the user is not required to re-sample if:

- (1) The city performs sampling at the user at a frequency of at least once per month; or
- (2) The city performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

(Ord. 1796, passed 2-26-96)

#### § 51.078 NOTIFICATION OF CHANGED DISCHARGE.

All users shall promptly notify the city in advance of any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pre-treatment modifications, and the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12(p).

(Ord. 1796, passed 2-26-96)

#### § 51.079 TOXIC ORGANIC COMPOUND REPORTING.

(A) Categorical users which are required by EPA to eliminate and/or reduce the levels of total toxic organics (TTO's) discharged into the sewer system must follow the categorical pretreatment Standards for that industry. Those users must also meet the following requirements:

- (1) Must sample, as part of the application requirements, for all the organics listed under the TTO limit (no exceptions);
- (2) No TTO's used at the facility or the user elects to develop a solvent management plan in lieu of continuously monitoring for TTO.

(B) The user must routinely submit a certification statement as part of its self-monitoring report that there has been no dumping of concentrated toxic organic into the wastewater and that it is implementing a solvent management plan as approved by the city. Facilities who have sampled initially and can verify that there are no toxic organics utilized should not have to develop a solvent management plan, but must make the certification statement of no use of toxic organic compounds during the reporting period.

(Ord. 1796, passed 2-26-96)

#### § 51.080 REPORTS FROM UNPERMITTED USERS.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the city as may be requested by the city.

(Ord. 1796, passed 2-26-96)

#### § 51.081 RECORD KEEPING.

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or POTW, or where the user has been specifically notified of a longer retention period by the city.

(Ord. 1796, passed 2-26-96)

### SAMPLING AND ANALYTICAL REQUIREMENTS

#### § 51.100 SAMPLING REQUIREMENTS FOR USERS.

(A) A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. The city will determine on a case-by-case whether the user will be able to composite the individual grab samples. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The city may waive flow-proportional composite sampling for any user that demonstrates that flow-proportional is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

(B) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the city and contained in the user's wastewater discharge permit. For categorical users, if other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the applicable categorical pretreatment standards. For other SIUs, for which the city has adjusted its local limits to factor out dilution flows, the user should measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standard(s).

(C) All sample results shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges from the user. If a user sampled and analyzed

more frequently than what was required in its wastewater discharge permit, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge as part of its self-monitoring report.

(Ord. 1796, passed 2-26-96)

#### § 51.101 ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 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.

(Ord. 1796, passed 2-26-96)

#### § 51.102 CITY-MONITORING OF USER'S WASTEWATER.

The city will follow the same procedures as outlined in §§ 51.100 and 51.101.

(Ord. 1796, passed 2-26-96)

### COMPLIANCE MONITORING

#### § 51.110 INSPECTION AND SAMPLING.

(A) The city shall have the right to enter the facilities of any user to ascertain whether the purpose of this chapter, and any wastewater discharge permit or order issued hereunder, is being met and whether the user is complying with all requirements thereof.

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

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

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

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

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

(Ord. 1796, passed 2-26-96)

#### § 51.111 MONITORING FACILITIES.



(A) Each user shall provide and operate at its own expense a monitoring facility to allow inspection, sampling, and flow measurements of each sewer discharge to the city. Each monitoring facility shall be situated on the user's premises, except where such a location would be impractical or cause undue hardship on the user, the city may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. The city, whenever applicable, may required the construction and maintenance of sampling facilities at other locations (for example, at the end of a manufacturing line, wastewater treatment system).

(B) There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications.

(C) The city may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be main- tained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

(Ord. 1796, passed 2-26-96)

#### § 51.112 SEARCH WARRANTS.

If the city has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this chapter or any wastewater discharge permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city shall seek issuance of a search and/or seizure warrant from the Municipal Court Judge. Such warrant shall be served at reasonable hours by the city in the company of a uniformed police officer of the city.

(Ord. 1796, passed 2-26-96)

#### § 51.113 VANDALISM.

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

(Ord. 1796, passed 2-26-96) Penalty, see § 51.999

#### ADMINISTRATIVE ENFORCEMENT REMEDIES

#### § 51.130 NOTIFICATION OF VIOLATION.

When the city finds that a user has violated (or continues to violate) any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city may serve upon that user a written notice

of violation (via certified letter). Within 30 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the city. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(Ord. 1796, passed 2-26-96)

#### § 51.131 CONSENT ORDERS.

The city may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the non-compliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §§ 51.133 and 51.134 and shall be judicially enforceable. Use of a consent order shall not be a bar against, or prerequisite for, taking any other action against the user.

(Ord. 1796, passed 2-26-96)

#### § 51.132 SHOW CAUSE HEARING.

The city may order (via a certified letter) a user which has violated or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the city and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 30 days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(Ord. 1796, passed 2-26-96)

#### § 51.133 COMPLIANCE ORDERS.

When the city finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city may issue an order to the user responsible for the discharge directing that the user come into compliance within a time specified in the order. If the user does not come into compliance within the time specified in the order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the non-compliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants

discharged to the sewer. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any, other action against the user.

(Ord. 1796, passed 2-26-96)

#### § 51.134 CEASE AND DESIST ORDERS.

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

(1) Immediately comply with all requirements; and

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

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

(Ord. 1796, passed 2-26-96)

#### § 51.135 ADMINISTRATIVE FINES.

(A) When the city finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city may fine such user in an amount not to exceed \$2,000. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

(B) Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed additional penalty as per § 52.18. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

(C) Users desiring to dispute such fines must file a written request for the city to reconsider the fine along with full payment of the fine amount within 30 days of being notified of the fine. Where a request has merit, the city shall convene a hearing on the matter within 30 days of receiving the request from the user. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The city may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

(Ord. 1796, passed 2-26-96)

#### § 51.136 EMERGENCY SUSPENSIONS.

(A) The city may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to

the health or welfare of persons. The city may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the city shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The city shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings in § 51.137 are initiated against the user.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the city prior to the date of any show cause or termination hearing under §§ 51.132 and 51.137.

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

(Ord. 1796, passed 2-26-96)

#### § 51.137 TERMINATION OF DISCHARGE; NON-EMERGENCY.

(A) In addition to the provisions in § 51.052, any user that violates the following conditions is subject to discharge termination:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
- (5) Violation of the pretreatment standards in §§ 51.010 through 51.021.

(B) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under § 51.132 why the proposed action should not be taken. Exercise of this option by the city shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. 1796, passed 2-26-96)

#### ADMINISTRATION AND ENFORCEMENT

#### § 51.150 ADMINISTRATION.

Except as otherwise provided herein, the Pretreatment Coordinator shall administer and implement the provisions of this chapter. The city Manager shall enforce the provisions of

this chapter. Any powers granted to or duties imposed upon the Pretreatment Coordinator and/or the city Manager may be delegated.

(Ord. 1796, passed 2-26-96)

#### § 51.151 CONFIDENTIAL INFORMATION.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from city inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. 1796, passed 2-26-96)

#### § 51.152 PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE.

(A) The city shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous 12 months, were in significant non-compliance with applicable pretreatment standards and requirements.

(B) The term significant non-compliance shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

(2) Technical review criteria (TRC) violations, defined here as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other discharge violation that the city believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of city personnel or the general public);

(4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within 30 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report non-compliance; or

(8) Any other violation(s) which the city determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. 1796, passed 2-26-96)

#### § 51.153 INJUNCTIVE RELIEF.

When the city finds that a user has violated (or continues to violate) any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the city may petition the District Court of the county through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The city may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(Ord. 1796, passed 2-26-96)

#### § 51.154 REMEDIES NON-EXCLUSIVE.

The provisions in §§ 51.130 through 51.137, 51.150, 51.152, 51.155, 51.156, and 51.999 are not exclusive remedies. The city reserves the right to take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city reserves the right to take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

(Ord. 1796, passed 2-26-96)

#### § 51.155 SUPPLEMENTAL ENFORCEMENT ACTION.

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

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

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

(Ord. 1796, passed 2-26-96)

#### § 51.156 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS.

(A) Upset.

(1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary non-compliance with applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(2) An upset shall constitute an affirmative defense to an action brought for non-compliance with applicable pretreatment standards if the requirements of division (A)(3) are met.

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

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

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

(c) The user has submitted the following information to the POTW and treatment plant operator within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

1. A description of the indirect discharge and cause of non-compliance;

2. The period on non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and

3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.

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

(5) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with applicable pretreatment standards.

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

(B) Prohibited discharge standards. A user shall have an affirmative defense to an enforcement action brought against it for non-compliance with the prohibitions in § 51.010(A) and (B)(3) through (B)(7) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or (b) no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(C) Bypass.

(1) For the purposes of this section:

(a) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

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

(2) A user may allow any bypass to occur which does not cause applicable pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of divisions (C)(3) and (C)(4) of this section.

(3) Advanced notice.

(a) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least 10 days before the date of the bypass, if possible.

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

(4) Bypass approval.

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

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

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



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

3. The user submitted notices as required under division (C)(3) of this section.

(b) The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in division (C)(4)(a) of this section.

(Ord. 1796, passed 2-26-96)

#### § 51.157 PRETREATMENT CHARGES AND FEES.

The city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

(A) Fees for wastewater discharge permit applications including the cost of processing such applications;

(B) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;

(C) Fees for reviewing and responding to accidental discharge procedures and construction;

(D) Fees for filing appeals; and

(E) Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the city.

(Ord. 1796, passed 2-26-96)

#### § 51.158 INDUSTRIAL WASTEWATER SURCHARGE.

(A) Surcharges for biochemical oxygen demand and total suspended solids surcharge.

(1) The industrial wastewater surcharge is an assessment to industrial users for exceptional treatment costs incurred by the city in the treatment of high strength wastes above those concentrations on which the sewer use fees are based. Sewer use fees are based on the design criteria for the city wastewater treatment plant which is designed for domestic strength, wastewater concentrations. Assessment of surcharges does not alleviate the industrial user of the responsibility to comply with treatment requirements. Consistent non-compliance by an industrial user will result in enforcement actions as defined by this chapter. Surcharges shall be calculated as follows:

S = unit cost of treating suspended solids \$/lb

S1 = TSS level in monthly sample (in mg/L)

B = unit cost of treating BOD \$/lb

B1 = BOD level in monthly sample (in mg/L)

Bd = BOD level in plant design criteria for domestic wastewater  
= 250 mg/L (Base value from which the surcharge is calculated)

Sd = TSS level in plant design criteria for domestic wastewater  
= 250 mg/L (Base value from which the surcharge is calculated)

F = Discharged flow measured in millions of gallons per day (MGD)

(2) The costs of treating TSS and BOD shall be adjusted annually to reflect increases or decreases in wastewater treatment costs based on the previous year's experience.

(3) The Pretreatment Coordinator shall bill the industrial user by the month and shall invoice industrial waste charges separate from the regular bill for water and sewer service fees. The user shall pay monthly in accordance with practices existing for payment of sewer service fees.

(B) Surcharges for all other pollutants. Industrial users shall be assessed a surcharge of \$25 per contaminant per day for all other violations of this article. Monthly surcharges are not penalty payments for violation of the industrial users discharge permit but a reimbursement for exceptional treatment costs. Assessment of surcharges does not alleviate the industrial user of the responsibility to comply with pretreatment requirements. Consistent non-compliance by an industrial user will result in enforcement actions as defined by this chapter.

(Ord. 1796, passed 2-26-96)

## FOOD ESTABLISHMENT DISCHARGES

### § 51.170 DEFINITIONS.

For this subchapter, the following terms shall be defined as written unless context indicates or requires a different meaning.

**COMMERCIAL ESTABLISHMENT.** Any location where a person manufactures, packages, prepares, provides, serves, or makes available any meals, or food for sale, for monetary compensation, or for non-monetary consideration.

**FATS, OILS, OR GREASE.** Any animal, vegetable, or mineral fats, oils, or greases and any organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules.

**FPE or FPES.** A food processing establishment or establishments, which are any commercial establishments in which food for human consumption is manufactured or packaged.

**FSE or FSEs.** A food service establishment or establishments, which are any commercial establishments that prepare, provide, serve, or make available for human consumption meals, or any food.

**INTERCEPTOR.** A device for collecting, containing, or removing food wastes or fats, oils, or grease from a waste stream before entering the POTW.

**PERSON.** An individual, partnership, joint venture, firm, company, corporation, association, joint stock company, governmental entity, trust, estate, sole proprietorship, or legal entity of any kind or character.

**POTW.** The publicly owned treatment works that is comprised of the sanitary sewer system, including treatment plant and collection infrastructure, operated by SAWS.

(Ord. 2016-2107, passed 3-21-16)

### § 51.171 INTERCEPTORS.

(A) Pretreatment required. Waste pretreatment that complies with this section is required before an FSE or FPE may discharge fats, oils, or grease into the POTW.

(B) Interceptor required. Each FSE and FPE shall discharge all waste from sinks, dishwashers, drains, and any other fixtures or sources through which fats, oils, or grease may be discharged into the POTW into a properly maintained and functioning interceptor that complies with the requirements of Plumbing and Drainage Institute standard no. PDI-G101, or as otherwise approved by the city with sample well after the grease interceptor.

(C) Existing facilities. Existing FSEs and FPEs that are not equipped with an interceptor that complies with the requirements of Plumbing and Drainage Institute standard no. PDI-G101, or as otherwise approved by the city, shall install such an interceptor not later than 180 days after the effective date of this ordinance.

(D) New facilities. New FSEs and FPEs shall be equipped with an interceptor that complies with the requirements of Plumbing and Drainage Institute standard no. PDI-G101, or as otherwise approved by the city, prior to commencement of any discharge into the POTW.

(Ord. 2016-2107, passed 3-21-16)

#### § 51.172 MAINTENANCE.

(A) General requirements. Each interceptor shall be continuously maintained in effective operational condition by and at the expense of the FSE or FPE that is required by this chapter to utilize or install the interceptor.

(B) Frequency.

(1) Each FSE and FPE that is required by this chapter to utilize or install an interceptor shall evacuate accumulated solids, fats, oils, grease and all other material(s) from each interceptor at a frequency not less often than every 90 days and within two working days whenever 25% or more of the wetted height of the interceptor, measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, fats, oils, or grease.

(2) FSEs or FPEs that conduct operations for less than 120 days in a calendar year may submit a written request to the city to be permitted to evacuate interceptors as required by division (B)(1) of this section at a frequency less often than every 90 days. The FSE or FPE submitting the request shall comply with division (B)(1) unless the city provides written approval of a different frequency for the evacuation of the interceptors that are the subject of the request. Any revised frequency approved by the city for the evacuation of an interceptor shall not affect the requirement that an FSE or FPE shall evacuate an interceptor within two working days whenever 25% or more of an interceptor contains materials as required by division (B)(1) of this chapter.

(C) Interceptor pumping and evacuation.

(1) For each interceptor that has a capacity greater than 100 gallons, FSEs and FPEs shall use a liquid waste hauler that is permitted by the TCEQ to collect, transport and dispose of liquid waste to evacuate an interceptor. FSEs and FPEs shall cause the wastes in an interceptor to be completely evacuated by a waste hauler at the time of each interceptor evacuation that is required by this chapter. Interceptor waste shall be disposed of only at a

facility that is authorized and permitted by applicable law to receive such waste for disposal.

(2) For each interceptor that has a capacity less than or equal to 100 gallons, FSEs and FPEs may use a liquid waste hauler that is permitted by the TCEQ to collect, transport and dispose of liquid waste pursuant to evacuate an interceptor. FSEs and FPEs shall cause the wastes in an interceptor to be completely evacuated at the time of each interceptor evacuation that is required by this chapter. Interceptor waste shall be disposed of only at a facility that is authorized and permitted by applicable law to receive such waste for disposal.

(D) Interceptor inspection. Not less frequently than once per calendar year, each FSE and FPE shall cause a licensed plumber or other qualified professional approved by the city to inspect each interceptor. After evacuation of the interceptor, the licensed plumber or other qualified professional approved by the city shall make a visual observation of and shall photograph all inlet and outlet fittings, internal baffles, walls, floor and all other internal structures. Each FSE and FPE shall cause the licensed plumber or other qualified professional approved by The city conducting the inspection to provide a written report of the inspection to the FSE or FPE that includes the photographs that are required by this section and that provides the name, address and telephone number of the licensed plumber or other qualified professional approved by the city conducting the inspection, the date of the inspection, and a description of any defects observed during the inspection. All defects shall be corrected by each FSE or FPE within 90 days of each inspection.

(Ord. 2016-2107, passed 3-21-16)

#### § 51.173 RECORD KEEPING.

(A) For each interceptor that has a capacity greater than 100 gallons, each FSE and FPE shall maintain all records that document each inspection, repair, cleaning, evacuation, service, or pumping of each interceptor as required in § 51.172(B) of this chapter.

(B) For each interceptor that has a capacity less than or equal to 100 gallons, each FSE and FPE shall maintain all records that document each inspection, repair, cleaning, evacuation, service, or pumping of each interceptor as required in § 51.172(B) of this chapter, if a liquid waste hauler that is permitted by the TCEQ to collect, transport and dispose of liquid waste is used to evacuate an interceptor. If a permitted liquid waste hauler is not used to evacuate an interceptor, then each FSE and FPE shall maintain a cleaning log that lists the location and type of each interceptor, the date and time of each interceptor evacuation, the quantity of material removed from the interceptor, the location where the material removed from the interceptor was disposed of, and the signature of the employee performing the evacuation of the interceptor.

(C) All records required by this chapter shall be maintained by each FSE and FPE for a period of five years after the date of the event that is the subject of the record. All such records shall be available for inspection on the premises of the FSE or FPE where the interceptor that is the subject of the record is located, unless a written request to store the records at a different location is submitted to the city and the city approves the request.

(Ord. 2016-2107, passed 3-21-16)

#### § 51.174 PROHIBITIONS.

(A) Prohibited discharge to an interceptor. Discharge into an interceptor of sanitary waste, solvents, emulsifiers, enzymes, chemicals, products, or bacteria that digest, liquefy, dissolve, or emulsify fats, oils, or grease is prohibited.

(B) Removed interceptor waste. Grease, solids, liquids, or any other matter removed from an interceptor shall not be returned to any interceptor, or disposed of in any private sanitary sewer line, any portion of the POTW, or any location other than a facility that is authorized by law to receive such wastes.

(C) No bypass. No liquid or solid waste that contains fats, oils, or grease may be discharged directly into the POTW. All liquids and solids that contain fats, oils, or grease that may be discharged by a FSE or a FPE into the POTW must be discharged into an interceptor before any such discharges enter the POTW. Should an interceptor require repair, upon written request to and the receipt of written approval from the city a bypass of the interceptor shall be permitted for the duration of the repair, but in no event for more than 18 consecutive hours. Each FSE or FPE shall create a written record that describes the repairs made to the interceptor, the date and time of the commencement of any interceptor repairs and of any bypass during the repairs, and the date and time of the termination of the repairs and of the bypass.

(Ord. 2016-2107, passed 3-21-16)

#### § 51.175 RIGHT OF ENTRY.

Access to premises. Employees of the city, or its authorized agents shall have the authority to enter the property of a FSE or FPE to conduct inspections of all or any part of the premises, to inspect and copy documents that a FSE or FPE is required by this chapter to generate or maintain, to make photographic documentation and to perform any other action, or to obtain any other information related to compliance with this subchapter. Each FSE and FPE shall allow access to its property and facilities for any of such purposes.

(Ord. 2016-2107, passed 3-21-16)

#### § 51.176 ENFORCEMENT.

(A) The failure to perform any action that is required by this subchapter or the performance of any action that is prohibited by this subchapter shall constitute a violation of this subchapter.

(B) System-wide enforcement. The FSEs and FPEs discharging in the area defined in § 51.170 of this subchapter are subject to the enforcement provisions of this subchapter. The city is authorized to take the following enforcement actions to achieve compliance with this subchapter and its purposes.

(1) Mandatory interceptor service. The city may issue a notice of violation requiring the FSE or FPE to conduct mandatory maintenance or repair of an interceptor within a prescribed period. The cost of the services is the direct responsibility of the FSE or FPE.

(2) Mandatory interceptor service schedule. The city may issue a notice of violation imposing a mandatory pumping and cleaning schedule to assure the proper maintenance of an interceptor. The cost of the services is the direct responsibility of the FSE or FPE. A mandatory interceptor service schedule may cover a time period of up to two years.

(3) Cost recovery. The city may issue a notice of violation assessing the FSE or FPE the amount of expenditures made by the city to clean-up or prevent sewer blockages and overflows caused by the discharge from the noncompliant FSE or FPE.

(4) Administrative penalties. In accordance with § 10.99, the city may issue a notice of violation assessing a penalty to the FSE or FPE for violation of provisions governing public health and sanitation, not to exceed \$2,000; the penalty for violations of other provisions of this subchapter shall be \$500. Each violation of this subchapter shall constitute a separate offense, and each day a violation continues shall be considered a new offense. A culpable mental state is not required to prove an offense under this subchapter.

(5) Cessation of service. Upon issuance of a notice of violation the city may terminate water and/or sewer service to the FSE or FPE location where a noted violation occurred if the violation is not completely remedied within 60 days after the date of the notice of violation.

(6) Emergency suspension of service. The city may immediately suspend the discharge of an FSE or FPE after informal notice to the discharger, whenever such suspension is needed to stop an actual or threatened discharge, which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons, or to the POTW.

(C) Authorization to enforce. The city is authorized to take any action authorized by this subchapter and to pursue enforcement against any person violating this subchapter. The grant of authority set out in this section does not in any way diminish the authority of the city's legal counsel to take any action necessary to enforce the terms of this subchapter, to prosecute violations of this subchapter, and to defend the legality of this subchapter, if challenged.

(Ord. 2016-2107, passed 3-21-16)

#### § 51.999 PENALTY.

##### (A) Civil penalties.

(1) A user which has violated or continues to violate any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of \$2,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

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

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

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

##### (B) Criminal prosecution.

(1) A user which has knowingly, intentionally or with criminal negligence violated any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, and punished as provided in § 10.99 of this code.

(2) A user which has knowingly, intentionally or with criminal negligence introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and punished as provided in § 10.99 of this Code.

(3) A user which knowingly, intentionally or with criminal negligence made any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, or order issued hereunder, or who knowingly, intentionally or with criminal negligence falsified, tampered with, or rendered inaccurate any monitoring device or method required under this chapter shall, upon conviction, be guilty of a misdemeanor, and punished as provided in § 10.99 of this code.

(Ord. 1796, passed 2-26-96)

## CHAPTER 52: WATER

### Section

#### General Provisions

- 52.01 Liability of city for damage
- 52.02 Drilling water wells
- 52.03 Water conservation plan
- 52.04 Tampering with or destroying public facilities

#### Rates and Charges

- 52.10 Application for service
- 52.11 Meters required; installation, maintenance, tampering
- 52.12 Water deposits; refunds
- 52.13 Tap charges
- 52.14 Cut-on and cut-off fees
- 52.15 Sewer charges
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- 52.20 Resumption of service
- 52.21 Rates and charges for franchised public utilities
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- 52.23 Senior and disabled citizens discount

## GENERAL PROVISIONS

### § 52.01 LIABILITY OF CITY FOR DAMAGE.

The city shall not be liable for any damage to the property of any consumer of any utility service furnished by the city due to temporary interruption of service, backflow of the sewerage system, or any other cause outside the direct control of the city.

('68 Code, § 37-1)

#### § 52.02 DRILLING WATER WELLS.

It shall be unlawful for any person to drill a water well within the city, except under the direct control and supervision of the city.

('68 Code, § 37-2)

#### § 52.03 WATER CONSERVATION PLAN.

(A) The North Texas Municipal Water District Model Water Conservation Plan attached as addendum "A" to Ord. 2010-2252 is hereby adopted and incorporated herein as if set forth in full at this point. It shall be kept by the City Secretary as a part of such ordinance in the official records of the city.

(B) Any customer, defined pursuant to 30 Tex. Admin. Code Ch. 291, failing to comply with the provisions of the Plan shall be subject to a fine of up to \$2,000 and/or discontinuance of water service by the city. Proof of a culpable mental state is not required for a conviction of an offense under this section. Each day a customer fails to comply with the Plan is a separate violation. The city's authority to seek injunctive or other civil relief available under the law is not limited by this section.

(Ord. 1645, passed 10-19-87; Am. Ord. 1863, passed 7-19-99; Am. Ord. 2010-2252, passed 7-19-10) Penalty, see § 10.99

#### § 52.04 TAMPERING WITH OR DESTROYING PUBLIC FACILITIES.

(A) A person may not knowingly tamper, connect to, or alter any component of the city's water system including valves, meters, meter boxes, lids, hydrants, lines, pump stations, ground storage tanks, and elevated storage tanks. This shall include direct or indirect efforts to initiate or restore water service without the approval of the city.

(B) If, without the written consent of the City Manager or the City Manager's designee, the person knowingly causes, suffers or allows the initiation or restoration of water service to the property after termination of service(s). For purposes of this section, it shall be assumed that the owner, occupant, or person in control of the property caused, suffered, or allowed the unlawful initiation or restoration of services.

(C) A person may not knowingly make or cause a false report to be made to the city of a reading of a water meter installed for metered billing.

(D) A person commits a separate offense each day that the person performs an act prohibited by this section or fails to perform an act required by this section.

(E) An offense under this section is a Class C misdemeanor punishable by a fine up to \$2,000 and/or discontinuance of water service by the city.

('68 Code, § 37-64) (Ord. 1590, passed 9-10-84; Am. Ord. 2010-2253, passed 7-19-10) Penalty, see § 10.99



## RATES AND CHARGES

### § 52.10 APPLICATION FOR SERVICE.

Written application shall be made for water, sewer, garbage collection, or any other utility service that may be furnished by the city to the city upon forms furnished therefor. Such application shall state the name and address of the applicant, the type of utility service desired, the purposes for which the application is made, and such other information as the city may request.

('68 Code, § 37-13)

Cross-reference:

Solid waste, see Ch. 50

### § 52.11 METERS REQUIRED; INSTALLATION, MAINTENANCE, TAMPERING.

(A) Meters shall be required to measure the consumption of each utility service furnished by the city, except garbage collection and sewerage service.

('68 Code, § 37-14)

(B) All meters required by this chapter and used to measure the consumption of utility services furnished by the city shall be installed and maintained by the city.

('68 Code, § 37-15)

(C) It shall be unlawful for any person, other than a duly authorized employee of the city, to tamper with any meter; or to in any manner injure any meter; or to manipulate or attempt to manipulate any meter in any manner so as to affect its registration or measurement of the metered utility service.

('68 Code, § 37-16) Penalty, see § 10.99

### § 52.12 WATER DEPOSITS; REFUNDS.

(A) Along with the application for water service, the applicant therefor shall pay the following deposit:

- (1) Residential owner - \$50.00; and,
- (2) Residential renter - \$65.00.
- (3) Commercial or business - \$60.00

('68 Code, § 37-17)

(B) Any deposit made to the city by an applicant shall be held by the city until such applicant's utility service for which the deposit was made shall be terminated. Upon termination of such service, the applicant shall be entitled to a refund of such deposit, less any amount which is due and owing to the city.

('68 Code, § 37-18)

(C) Where an applicant has an outstanding bill for utility services previously furnished to another location by the city, such outstanding bill must be paid before a deposit for a new location is accepted and utility services provided to such new location.

(Ord. passed 11-5-62; Am. Ord. 1136, passed 1-28-67; Am. Ord. 1390, passed 5-15-78; Am. Ord. 1859, passed 5-3-99)

### § 52.13 TAP CHARGES.

(A) The following charges shall be made to the city for each and every water and sewer tap connection made to the city's water mains or sewer lines:

- (1) Five-eighths-inch x three-fourths-inch water tap - \$550;
- (2) Sewer tap - \$20.
- (3) All other taps will be charges based on size and location.

(B) The charges of division (A) of this section shall cover the cost of making the tap to the main or line, the necessary connection, and the installation of the meter and box, and the necessary inspection.

(Ord. 1690, passed 9-25-90; Am. Ord. 2013-2041, passed 8-5-13)

Cross-reference:

Line extensions, see § 53.01

### § 52.14 CUT-ON AND CUT-OFF FEES.

(A) In addition to the application for water service and the required utility deposit, the applicant for water service shall pay to the city a cut-on fee of \$25.00. Provided, however, if water service to such applicant was previously cut-off because of the nonpayment by such applicant of utility bills for utility services previously furnished by the city to such applicant, a cut-on fee of \$15.00 shall be paid by such applicant.

('68 Code, § 37-20)

(B) When any water service furnished by the city to any consumer is discontinued or terminated, such consumer shall pay to the city, in addition to all other rates, charges, fees and penalties which such consumer may owe to the city, a cut-off fee of \$25.00. Provided, however, if water service to such consumer was previously cut-off because of nonpayment by such consumer of utility bills for utility services previously furnished by the city to such consumer, a cut-off fee of \$25.00 shall be paid by such consumer.

(C) Any violation of the provisions of Titles V, IX, XI or XV of this code on any premises not connected to the city water system, which comes to the attention of the Building Official, shall be reported in writing to the Water Department. Any violation so reported shall be corrected prior to such service being turned on. Provided, however, the City Manager, for good cause shown, may, at his or her sole discretion, waive such requirement. ('68 Code, § 37-25) (Ord. 1136, passed 1-23-67; Am. Ord. 1859, passed 5-3-99; Am. Ord. 1860, passed 5-17-99; Am. Ord. 2013-2039, passed 8-5-13)

### § 52.15 SEWER CHARGES.

(A) The city shall charge for the furnishing of sewer service to customers within the corporate limits of the city and shall charge each customer as follows:

- (1) Sewer service furnished to single-family residences and multi-family residences:  
0 to 2,000 gal. \$12.32 (minimum charge)  
3,000 to 12,000 gal. \$4.25 per 1,000 gal.

(12,000 gallons is the maximum charger for sewer for residential)

(2) (a) Sewer service furnished to all other customers, including but not being limited to industrial facilities, offices and other commercial establishments:

0 to 2,000 gal.

1-inch meter \$17.10 (minimum rate)

1.5-inch meter \$21.98 (minimum rate)

2-inch meter \$35.42 (minimum rate)

3-inch meter \$134.34 (minimum rate)

4-inch meter \$170.98 (minimum rate)

6-inch meter \$256.48 (minimum rate)

8-inch meter \$354.18 (minimum rate)

10-inch meter \$452.48 (minimum rate)

3,000 to 12,000 gal. \$9.21 per 1,000 gal.

13,000 gal. and up \$12.16 per 1,000 gal.

(b) Meter sizes not specifically identified will be billed the rate of the next highest meter size.

(3) The following miscellaneous charges shall be made for the indicated purposes:

Apartment deposit \$35.00 per unit

Voluntary ambulance \$2.50 per month

Delinquency fee \$40.00

(B) Single family residences will be charged to and including a maximum of 12,000 gallons per month.

(C) Commercial, industrial, and multi-family customers will be charged for 100% of water usage.

(D) Pre-treatment may be required. Additional charges based on the content of the waste may be levied.

(E) Ice houses and offshore installations having a restroom will be charged a flat fee of \$20 per month for sewer service.

(Ord. 1689, passed 9-25-90; Am. Ord. 1870, passed 9-7-99; Am. Ord. 1911, passed 9-18-00; Am. Ord. 2001-1944, passed 9-4-01; Am. Ord. 2014-2072, passed 10-6-14; Am. Ord. 2019-2573, passed 6-3-19; Am. Ord. 2020-2605, passed 8-17-20; Am. Ord. 2020-2614, passed 9-28-20)

#### § 52.16 WATER CHARGES.

(A) The city shall furnish water service to customers within the corporate limits of the city and shall charge each customer as follows:

(1) For water furnished to single-family residences and multi-family residences:

0 gal. to 2,000 gal. \$13.55 (minimum rate)

3,000 gal. to 12,000 gal. \$4.68 per 1,000 gal.

All over 12,000 gal. \$6.16 per 1,000 gal.

(2) (a) For water furnished to all other customers, including but not being limited to industrial facilities, offices and other commercial establishments located within the city:

0 gal. to 2,000 gal.

1-inch meter \$19.75 (minimum rate)  
1.5-inch meter \$25.40 (minimum rate)  
2-inch meter \$40.92 (minimum rate)  
3-inch meter \$155.22 (minimum rate)  
4-inch meter \$197.55 (minimum rate)  
6-inch meter \$296.32 (minimum rate)  
8-inch meter \$409.21 (minimum rate)  
10-inch meter \$522.77 (minimum rate)  
3,000 gal. to 12,000 gal. \$9.22 per 1,000 gal.  
13,000 gal. and up \$12.16 per 1,000 gal.

(b) Meter sizes not specifically identified will be billed the rate of the next highest meter size.

(B) The city shall furnish water service to customers outside the corporate limits of the city and shall charge each customer as follows:

0 gal. to 2,000 gal.  
1-inch meter \$29.63 (minimum rate)  
1.5-inch meter \$38.09 (minimum rate)  
2-inch meter \$61.37 (minimum rate)  
3-inch meter \$232.78 (minimum rate)  
4-inch meter \$296.26 (minimum rate)  
6-inch meter \$444.40 (minimum rate)  
8-inch meter \$613.69 (minimum rate)  
10-inch meter \$784.01 (minimum rate)  
3,000 gal. and up \$13.82 per 1,000 gal.

(C) The city shall furnish water-only service to customers inside the corporate limits of the city and shall charge each customer as follows:

0 gal. to 2,000 gal.  
1-inch meter \$28.21 (minimum rate)  
1.5-inch meter \$36.27 (minimum rate)  
2-inch meter \$58.44 (minimum rate)  
3-inch meter \$221.66 (minimum rate)  
4-inch meter \$282.11 (minimum rate)  
6-inch meter \$423.17 (minimum rate)  
8-inch meter \$584.37 (minimum rate)  
10-inch meter \$746.56 (minimum rate)  
3,000 gal. to 12,000 gal. \$9.73 per 1,000 gal.  
13,000 gal. and up \$12.83 per 1,000 gal.

(Ord. 1688, passed 9-25-90; Am. Ord. 1818, passed 8-18-97; Am. Ord. 1870, passed 9-7-99; Am. Ord. 1911, passed 9-18-00; Am. Ord. 2001-1944, passed 9-4-01; Am. Ord. 2010-2241, passed 2-16-10; Am. Ord. 2013-052, passed 10-7-13; Am. Ord. 2014-2072, passed 10-6-14;

Am. Ord. 2019-2573, passed 6-3-19; Am. Ord. 2020-2605, passed 8-17-20; Am. Ord. 2020-2614, passed 9-28-20)

#### § 52.17 TRANSFER OF SERVICE FEE.

Provided, where there is an outstanding bill for utility services previously furnished to such former location by the city, such outstanding bill must be paid before the utility deposit for such former location is transferred to a new location.

('68 Code, § 37-24) (Ord. 1136, passed 1-23-67; Am. Ord. 1859, passed 5-3-99)

#### § 52.18 PAYMENT OF RATES AND CHARGES.

A bill for the rates and charges fixed and prescribed for all utility services furnished by the city by this chapter and not previously billed shall be mailed to each consumer by the twentieth day of each calendar month and shall be due and payable by the fifth day of the next succeeding calendar month. In the event that such rates and charges are not paid in full by such date, a late penalty of \$10 shall be added to such rates and charges. Such bill shall also include the monthly voluntary contribution for the city's fire and e.m.t. department authorized by § 92.42 of this code.

('68 Code, § 37-26) (Ord. 1136, passed 1-23-67; Am. Ord. 1859, passed 5-3-99; Am. Ord. 1899, passed 5-9-00; Am. Ord. 2001-1919, passed 1-8-01)

#### § 52.19 DISCONNECTION OF SERVICE FOR NONPAYMENT.

In the event that any consumer of utility services furnished by the city does not pay the rates and charges, provided for in this chapter within seven days after the due date specified above in § 52.18, in addition to collecting the penalty therein provided, the City Manager or his designee shall give notice to such consumer, in the manner set forth in § 52.22 of this chapter, that on the date specified therein (which may not be less than 14 days after the due date specified above in § 52.18) utility services furnished to such consumer will be terminated.

('68 Code, § 37-27) (Ord. 1136, passed 1-23-67; Am. Ord. 1859, passed 5-3-99)

#### § 52.20 RESUMPTION OF SERVICE.

Any consumer of the utility services furnished by the city whose utility services have been disconnected or terminated for the nonpayment of the rates and charges therefor may have such utility services resumed by paying a reconnection fee of \$4 in addition to all other rates, charges, and penalties due by him to the city.

('68 Code, § 37-28) (Ord. 1136, passed 1-23-67)

#### § 52.21 RATES AND CHARGES FOR FRANCHISED PUBLIC UTILITIES.

The City Council shall fix and approve the rates charged by any private public utility company franchised by the city and doing business within the city. It shall be unlawful for any such public utility company or any officer or employee thereof to assess or charge for services rendered any rate other than the rate so fixed or approved.

('68 Code, § 37-29)

## § 52.22 RULES FOR TERMINATION OF UTILITY SERVICE.

(A) Non-emergency termination. Whenever the City Manager or his designee is authorized to terminate the utility services being furnished to any consumer by the city against that consumer's consent and under the provisions of § 52.19 of this chapter, or whenever utility services furnished by the city to any consumer is otherwise terminated in a non-emergency situation other than by such consumer's request, the City Manager or his designee shall first give or cause to be given to such consumer a notice in the form and manner described in Division (B) of this section and afford the consumer an opportunity for a hearing in the form and manner described in Division (C) of this section before the termination of such services. If after the City Manager or his designee has complied with such notice requirements the consumer does not request a hearing for review of the termination within the time specified in such notice, the City Manager or his designee may terminate the utilities being furnished by the city to such consumer on the day and at the time specified in the notice or within five calendar days thereafter. Any time elapsing after the declared termination date, the elapsing of which is due to the pendency of a hearing or an extension of time granted pursuant to a hearing shall not be considered when calculating the five days in which the City Manager or his designee may terminate the furnishing of such utilities by the city after a declared termination date. If a hearing is requested within the time specified in such notice, the utility services provided by the city to the consumer may not be terminated pending such hearing. After the deadline for requesting a hearing has passed, the consumer to whom such notice was given may still request a hearing to review the decision to terminate such consumer's utility services if, within ten days of such deadline, such consumer files with the City Manager an affidavit demonstrating that, through no fault of such consumer, such notice was not received in time to act upon it prior to such deadline but the suspension of such termination pending such hearing shall be at the discretion of the City Manager.

(B) Notice. If sent by mail, the notice must be sent to a consumer of utility services provided by the city at least eight days prior to the proposed termination of such services; or, within five days prior to termination if served by affixing a tag to any improvements located on the premises to which such services have been provided. If sent by mail, such notice may be included in the monthly utility bill sent to the consumer at whose request utilities have been furnished to such premises by the city, or sent separately by depositing such notice in a U.S. Post Office located in the city, postage prepaid, and addressed to such consumer at the last address given to the city by such consumer. If served by attaching a tag to any improvements located on the premises to which such utility services have been provided, such tag must be constructed of a heavy and water-resistant grade of paper and the City Manager or his designee must wire the tag to the front door handle or, if there is none, then such tag must be wired to another portion of such improvements where it is most likely to be seen by a person of ordinary eyesight upon entering such improvements. It shall be a Class C misdemeanor for any person, other than the person to whom such notice is addressed, to remove any tag attached to the improvements located on any premises in the city pursuant to this division of this chapter. If the consumer to whom such notice is given is a landlord who supplies city utility services to tenants, the City Manager

or his designee must also attempt to deliver a copy of such notice to such tenants. The notice must be in writing and clearly communicate the following:

- (1) The name of the consumer receiving services;
- (2) The street address where utility services are proposed to be terminated;
- (3) The reason for the proposed utility service termination, including the amount of delinquency, if nonpayment of charges is the reason for termination;
- (4) The day and time on which the utility service will be terminated unless the conditions bringing about the termination are sooner remedied;
- (5) That the consumer has the right to appear and be heard at a hearing to be conducted by the City Manager or his designee prior to the date of termination upon written request to the City Manager; and,
- (6) The date by which the consumer must request a hearing in order to receive it, which deadline may be no earlier than one day prior to the termination date, nor may that deadline ever be sooner than five days from the date notice is mailed or attached to such improvements, as the case may be, but such five days may not include weekdays on which city offices are closed for a holiday.

(C) Hearing. Should any consumer request a hearing to review the decision to terminate the utility services supplied by the city to that consumer, such hearing shall be held by the City Manager or his designee no later than five business days after being requested by the consumer. At such hearing, the reason for such termination shall be stated, the consumer shall be given the opportunity to be heard in person or through legal counsel and to cross-examine any adverse witnesses. At the conclusion of the hearing, the City Manager or his designee shall either uphold or set aside such termination and his decision in that regard shall be final and not appealable.

(D) Alternative resolution. If a hearing is requested by a consumer within the time specified in such notice, then either before or after such hearing, the City Manager or his designee shall have authority to grant extensions for payment, modify billings or fashion such other relief as he may deem to be equitable under all of the circumstances of a particular case.

(E) For the purpose of applying the provisions of any section of this chapter requiring the payment of any fee following the termination or discontinuance of any utility service, such service shall be considered to have been discontinued or terminated by the city on the date and at the time specified in the notice of termination, as required by division (B)(4) of this section, whether or not such service has been actually cut-off at the meter before a request for reconnection has been received by the city.

(Ord. 1859, passed 5-3-99; Am. Ord. 1912, passed 10-2-00)

#### § 52.23 SENIOR AND DISABLED CITIZENS DISCOUNT.

(A) Residents 65 and older and disabled citizens shall be eligible to apply for a discount of 20% of the base water and sewer rate.

(B) "Disabled citizen" as used in this section means a person that can show proof of disability upon presentation of one of the following:

- (1) Certification from the Social Security Administration;

(2) Certification from a proper administrative officer that the applicant is a recipient of a public disability pension entity; or

(3) Certification from the Veterans Administration.

(Ord. 2020-2613, passed 9-8-20; Am. Ord. 2020-2616, passed 11-11-20)

## CHAPTER 53: LINE EXTENSIONS

### Section

53.01 Obligations of the city and its customers

#### § 53.01 OBLIGATIONS OF THE CITY AND ITS CUSTOMERS.

The city shall provide the first 150 feet of an open cut water or sewer line extension at no cost to the customer. If an extension of more than 150 feet is required to reach the property line of the premises to which the customer has requested water or sewer service be provided, the cost of such extension beyond the first 150 feet shall be borne by the customer and shall be prepaid by the customer unless other arrangements for the financing of such extension are approved by the City Council.

(Ord. 2006-2128, passed 8-7-06)

Cross-reference:

Tap charges, see § 52.13

## CHAPTER 54: STORM WATER MANAGEMENT

### Section

#### General Provisions

54.01 Objectives

54.02 Administration

54.03 Submission of documents

54.04 Definitions

54.05 Citizen reporting

54.06 Notification of spills

#### Storm Water System

54.20 Illicit discharge

54.21 Allowable nonstorm water discharges

54.22 Illicit connections prohibited

54.23 Suspension of MS4 access

#### Construction Storm Water Management

54.30 Construction site

54.31 Adoption of the Storm Water Management Guidance Document

54.32 Application for storm water permit

54.33 Contents of storm water permit

54.34 Storm water permit exemptions

54.35 Waiver of storm water permit requirement

54.36 Storm water quality plan

54.37 Storm water pollution prevention plan (SWP3)



## Fees

54.50 Fees

## Civil Enforcement

54.60 Responsibility of other entities

54.61 Right of entry

54.62 Stop work order

54.63 Notification of violation (NOV)

54.64 Consent orders

54.65 Compliance order

54.66 Remediation, abatement and restoration orders

54.67 Emergency cease and desist orders

54.68 Appeals

## Criminal Penalties

54.70 Public nuisance

54.71 Remedies not exclusive

54.99 Penalty

## GENERAL PROVISIONS

### § 54.01 OBJECTIVES.

The objectives of this chapter are as follows:

(A) To maintain and improve the quality of surface water within the city;

(B) To prevent or reduce the discharge of contaminated storm water runoff from construction and residential sites into the municipal separate storm sewer system (MS4) and surface waters within the city;

(C) To facilitate compliance with federal and state rules and regulations by owners, operators, contractors, and subcontractors of construction sites and commercial facilities within the city;

(D) To enable the city to comply with all federal and state laws and regulations applicable to storm water discharges.

(Ord. 2010-2243, passed 3-15-10)

### § 54.02 ADMINISTRATION.

The Director of Public Works and the Director's authorized representatives are authorized to administer, implement, and enforce the provisions of this chapter.

(Ord. 2010-2243, passed 3-15-10)

### § 54.03 SUBMISSION OF DOCUMENTS.

All persons required by federal or state regulations or this chapter to submit documents, pertaining to discharges of storm water or accidental discharges into the local MS4, shall submit all applicable documents to the following address:

City Manager  
City of Freeport  
200 West Second Street  
Freeport, TX 77541  
(Ord. 2010-2243, passed 3-15-10)

#### § 54.04 DEFINITIONS.

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

**AGRICULTURAL STORM WATER RUNOFF.** Any storm water runoff from orchards, cultivated crops, pastures, range lands, and other nonpoint source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 CFR § 122.23 or discharges from concentrated aquatic production facilities as defined in 40 CFR § 122.24.

**BEST MANAGEMENT PRACTICE or BMP.** Schedules of activities, prohibitions of practices, maintenance procedures, structural controls, and other management practices to prevent the pollution of the MS4 and waters in the state. BEST MANAGEMENT PRACTICES also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage areas.

**CITY.** The City of Freeport, Texas, or any authorized person acting in its behalf.

**COMMENCEMENT OF CONSTRUCTION ACTIVITIES.** The initial disturbance of soils associated with clearing, grading or excavation activities, as well as other construction-related activities (e.g. stockpiling of fill material, demolition).

**COMMON PLAN OF DEVELOPMENT OR SALE.** A construction activity that is completed in separate stages, separate phases, or in combination with other construction activities. A COMMON PLAN OF DEVELOPMENT OR SALE is identified by the documentation for the construction project that identifies the scope of the project, and may include plats, blueprints, marketing plans, contracts, building permits, a public notice or hearing, zoning requests, or other similar documentation and activities.

**CONSTRUCTION ACTIVITY.** Construction activities including clearing, grading, and excavating that result in land disturbances of equal to or greater than one acre. CONSTRUCTION ACTIVITY also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre of land. CONSTRUCTION ACTIVITY does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of the site (e.g., the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities).

**CONTAMINATION.** The presence of or entry into a public water supply system, the MS4 or water in the state, any substance which may be detrimental to the public health and/or the quality of water.

**CONTRACTOR.** The person or persons that have day-to-day operational control of those activities at a construction site that are necessary to ensure compliance with local pollution prevention requirements, although they do not qualify as an operator under the construction permit.

**CONVEYANCE.** Curbs, gutters, manmade channels and ditches, drains, pipes, and other constructed features designed or used for flood control or to otherwise transport storm water runoff.

**DISCHARGE.** To deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of any substance, or to cause, allow, permit, or suffer any of these acts or omissions.

**DOMESTIC SEWAGE.** Waterborne human waste and waste from domestic activities, including the use of toilet facilities, washing, bathing, and food preparation.

**EROSION.** The process of land being diminished or worn away due to wind or water. EROSION occurs naturally, but can be intensified by land-disturbing activities such as development, farming, road building, timber harvesting, and the like.

**FACILITY.** Any building, structure, installation, process or activity from which there is or may be a discharge of a pollutant.

**FINAL STABILIZATION.** A construction site status where any of the following conditions are met:

(1) All soil disturbing activities at the construction site have been completed and a uniform (e.g. evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as riprap, geotextiles, or gabions) have been employed;

(2) For individual lots in a residential construction site, the homebuilder has completed final stabilization on the individual lot(s) as specified in condition (1) above;

(3) For construction activities on land used for agricultural purposes (e.g. pipelines across crop or rangeland), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface water and areas, which are not being returned to their preconstruction agricultural use, shall meet the final stabilization conditions of condition (1) above.

**HAZARDOUS SUBSTANCE OR MATERIALS.** Any substance listed in table 302.4 of 40 CFR part 302.

**HAZARDOUS WASTE.** Any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR part 261.

**ILLICIT CONNECTION.** Any manmade conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

**ILLICIT DISCHARGE.** Any discharge to a municipal separate storm sewer that is not entirely composed of storm water, except discharges authorized under an NPDES or TPDES permit and discharges resulting from emergency fire fighting activities.

**LARGE CONSTRUCTION ACTIVITY.** Construction activities including clearing, grading, and excavating that result in land disturbances of equal to or greater than five acres of land.

**LARGE CONSTRUCTION ACTIVITY** also includes the disturbance of less than five acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than five acres of land. **LARGE CONSTRUCTION ACTIVITY** does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar storm water conveyance. **LARGE CONSTRUCTION ACTIVITY** does not include the routine grading of existing dirt roads, asphalt overlays or existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities.

**MAXIMUM EXTENT PRACTICABLE or MEP.** The technology-based discharge standard for municipal separate storm sewer systems to reduce pollutants in storm water discharges that was established by CWA § 402(p).

**MS4 OPERATOR.** The public entity, and/or the entity contracted by the public entity, responsible for management and operation of the municipal separate storm sewer system.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM or MS4.** A separate storm sewer system owned or operated by the United States, a state, city, town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over the disposal of sewage, wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, that discharges to surface water in the state.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM or NPDES.** The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing requirements of certain sections of the Federal Clean Water Act.

**NONPOINT SOURCE.** Any source of any discharge of a pollutant that is not a "point source."

**NOTICE OF INTENT or NOI.** A written submission to TCEQ, from an applicant, requesting coverage under a general permit.

**NPDES PERMIT.** A permit issued by the EPA that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general basis. In the State of Texas, the EPA retains authority for permitting oil and gas exploration activities and Indian Country land.

**OIL.** Any kind of oil in any form, including, but not limited to, petroleum, fuel oil, crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste.

**UTFALL.** A point source at the point where a municipal separate storm sewer discharges to water in the state and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels, or other conveyances that connect segments of the same stream or other waters of the U.S. and are used to convey waters of the U.S.

**OWNER.** The person or persons that have operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications, although they do not qualify as an operator under the construction permit.

**PERMIT.** Either an NPDES or TPDES permit, whichever is applicable.

**PERMITTEE.** An MS4 operator authorized under an NPDES or TPDES permit.

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

**POINT SOURCE.** (From 40 CFR §122.22.) Any discernable, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

**POLLUTANT.** Dredged spoil, solid waste, incinerator residue, garbage, sewage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, and agricultural waste discharged into water. The term “pollutant” does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated rangeland, pastureland, and farmland.

**POLLUTION.** (From Tex. Water Code § 26.001(14).) The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

**RELEASE.** Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the municipal separate storm sewer system (MS4) or water in the state.

**RESPONSIBLE PARTY.** The owner, occupant, developer, builder, or general contractor who has operational control over the site, including the ability to make modifications in specifications, or who has operational control over day-to-day activities at the site and is able to ensure compliance with plan requirements and permit conditions (e.g., a person who is authorized to direct the conduct of workers at the site). Any person who has filed an notice of intent (NOI) or completed a construction site notice is presumed to be a RESPONSIBLE PARTY.

**RIPARIAN.** Any area relating to or located on the bank of a natural watercourse.

**RUNOFF.** Drainage or flood discharge that leaves an area as surface flow or as pipeline flow.

**SEDIMENT.** Soil, sand, and minerals washed from land into water, usually after rain.

**SEPARATE STORM SEWER SYSTEM.** A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, outfalls, or storm drains), designed or used for collecting or conveying storm water; which is not a combined sewer, and which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR § 122.2.

**SMALL CONSTRUCTION ACTIVITY.** Construction activities including clearing, grading, and excavating that result in land disturbance of equal to or greater than one acre and less than five acres of land. SMALL CONSTRUCTION ACTIVITY also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale

if the larger common plan will ultimately disturb equal to or greater than one and less than five acres of land. SMALL CONSTRUCTION ACTIVITY does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar storm water conveyance. SMALL CONSTRUCTION ACTIVITY does not include the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities.

STORM DRAIN. An opening leading to an underground pipe or an open ditch for carrying surface runoff.

STORM WATER. Any flow occurring during or after any form of natural precipitation, including rainfall runoff, snowmelt runoff, and surface runoff and drainage.

STORM WATER ASSOCIATED WITH CONSTRUCTION ACTIVITY. Storm water runoff from a construction activity where soil disturbing activities (including clearing, grading, and excavating) result in the disturbance of one or more acres of total land area, or are part of a larger common plan of development or sale that will ultimately result in the disturbance of one or more acres of total land area.

STORM WATER PERMIT. Authorization issued by the city to conduct construction activities.

STORM WATER POLLUTION PREVENTION PLAN or SWP3. A plan required by a construction general permit to discharge storm water associated with construction and which describes and ensures the implementation of practices that are to be used to reduce the pollutants in storm water discharges associated with construction at the facility.

STORM WATER QUALITY PLAN. A plan describing how construction is to be performed and how the site closure is to be accomplished, including post-construction control measures, at a construction site.

STRUCTURAL CONTROL (OR PRACTICE). A pollution prevention practice that requires the construction of a device, or the use of a device, to capture or prevent pollution in storm water runoff. STRUCTURAL CONTROLS AND PRACTICES may include but are not limited to: wet ponds, infiltration basins, storm water wetlands, silt fences, earthen dikes, drainage swales, sediment traps, check dams, stabilized construction entrances, subsurface drains, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins.

TEMPORARY STABILIZATION. A condition where exposed soils or disturbed areas are provided a protective cover or other structural control to prevent the migration of pollutants. TEMPORARY STABILIZATION may include temporary seeding, geotextiles, mulches, perimeter controls, and other techniques to reduce or eliminate erosion until either final stabilization can be achieved or until further construction activities take place.

TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM or TPDES. The state program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing requirements of certain sections of the Federal Clean Water Act.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ). The permitting authority for storm water discharges.

TPDES PERMIT. A permit issued by the state that authorizes discharges of pollutants to water in the state and waters of the United States, whether the permit is applicable on an individual, group or general basis.

WATER IN THE STATE. Any groundwater, percolating or otherwise, lakes, bays,, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

WATERS OF THE UNITED STATES. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "waters of the United States" at 40 CFR § 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act.

WETLAND. An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. WETLANDS generally include swamps, marshes, bogs, and similar areas.

(Ord. 2010-2243, passed 3-15-10)

#### § 54.05 CITIZEN REPORTING.

(A) All citizens are encouraged to report any spills, releases, illicit connections, other instances of anyone discharging pollutants into the MS4 or waters of the United States, and any other violation of this chapter of which they become aware, to the City Manager.

(B) Such citizen reports may be made by telephone, in writing, or in person. A written record of each citizen report to the city will be prepared and kept on file for a period of three years, and a copy of the city's record of the report will be furnished to the reporting citizen upon request. Also upon request, the City Manager will inform the reporting citizen of any action undertaken by the city in response to the citizen's report.

(Ord. 2010-2243, passed 3-15-10)

#### § 54.06 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants into storm water, the storm drain system, or waters of the U.S., that person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, that person shall immediately notify emergency response agencies of the

occurrence. In the event of a release of non-hazardous materials, that person shall notify the City Manager no later than the next working day. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall retain an on-site written record of the discharge and the action taken to prevent its recurrence. Such records shall be retained for at least five years. (Ord. 2010-2243, passed 3-15-10) Penalty, see § 54.99

## STORM WATER SYSTEM

### § 54.20 ILLICIT DISCHARGE.

No person shall introduce, cause to be introduced, or allow to be introduced an illicit discharge into the MS4, except those discharges listed in § 54.21. Illicit discharge may result in the termination of the MS4 access by the City Manager.

(Ord. 2010-2243, passed 3-15-10) Penalty, see § 54.99

### § 54.21 ALLOWABLE NONSTORM WATER DISCHARGES.

(A) The following nonstorm water discharges may be discharged to the MS4, provided that division (B) below does not apply:

- (1) A discharge authorized by, and in full compliance with, a TPDES or NPDES permit;
- (2) Water line flushing (excluding discharges of hyperchlorinated water, unless the water is first dechlorinated and discharges are not expected to adversely effect aquatic life);
- (3) Runoff or return flow from landscape irrigation, lawn irrigation, and other irrigation utilizing uncontaminated sources of potable water, groundwater, or surface water;
- (4) Discharges from a potable water source;
- (5) Diverted stream flows;
- (6) Rising ground waters and springs;
- (7) Uncontaminated ground water infiltration;
- (8) Uncontaminated pumped ground water;
- (9) A discharge from a foundation drain or a footing drain;
- (10) Air conditioning condensate;
- (11) Water from a crawl space pump;
- (12) A discharge from residential car washing and noncommercial car washing events;
- (13) Flows from a riparian habitat or wetland;
- (14) Dechlorinated swimming pool discharges;
- (15) Street wash water;
- (16) Dye testing if verbal notification to the city is given prior to the time of the test;
- (17) A discharge or flow from emergency fire fighting activities; and
- (18) Other similar occasional non-storm water discharges, unless the TCEQ develops permits or regulations addressing these discharges.



(B) The city may, on a case-by-case basis, prohibit any of the above listed allowable nonstorm water discharges in division (A) provided:

(1) The discharge or flow in question has been determined by the TCEQ or City Manager to be a significant contributor of a pollutant or pollutants to water in the state or the MS4; and

(2) Written notice of such determination has been provided to the discharger.

(C) Specific prohibitions of construction-related illicit discharges. It is unlawful for a person to intentionally, knowingly, recklessly or with criminal negligence, create, cause, introduce, or contribute to creating, causing or introducing any discharge that causes and/or contributes to a violation of applicable water quality standards, a discharge or flow composed of one or more of the following from construction site:

(1) Pollutants from equipment, vehicle and/or other wash waters;

(2) Pollutants from exposed building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste or other similar materials;

(3) Pollutants from spills and/or leaks;

(4) Pollutants from washout wastewater, fuels, oils, soaps, solvents, and dewatering activities.

(Ord. 2010-2243, passed 3-15-10; Am. Ord. 2015-2091, passed 7-20-15)

#### § 54.22 ILLICIT CONNECTIONS PROHIBITED.

It is unlawful for any person to construct, use, maintain, or continue the existence of an illicit connection. Illicit connections may be terminated by order of the City Manager without prior notice.

(Ord. 2010-2243, passed 3-15-10) Penalty, see § 54.99

#### § 54.23 SUSPENSION OF MS4 ACCESS.

(A) The City Manager may, without prior notice, issue an emergency order suspending MS4 discharge access when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. If the person who receives the suspension order fails to comply, the City Manager may take steps to prevent or minimize damage to the MS4 or to minimize danger to the public.

(B) Access may not be reinstated without written approval from the City Manger.

(Ord. 2010-2243, passed 3-15-10)

#### CONSTRUCTION STORM WATER MANAGEMENT

#### § 54.30 CONSTRUCTION SITE.

(A) A construction site includes all areas where construction activity, which is all or part of a common development or project, are occurring, proposed to occur, or have occurred, irrespective of whether that construction is in compliance with this chapter, irrespective of whether that construction activity is ongoing or temporarily suspended for any purpose,

and irrespective of whether the City Manager has granted authorization to undertake the construction activity. A construction site shall encompass:

(1) All land and surface water areas where construction activities of any type, including all areas of land surface disturbed by or as a consequence of the construction activities or other activities in support of the construction activities, are undertaken as part of a common plan of development or project;

(2) All areas of land to be disturbed by construction of a common plan of development or project, irrespective of whether such construction is undertaken or planned to be undertaken in one phase or stage or different phases or stages and irrespective of whether such construction is undertaken or planned to be undertaken at different, separate, or simultaneous times;

(3) All areas of land where the land is to be disturbed by construction of a common plan of development or project, irrespective of whether undertaken at contiguous or separate locations within the general area encompassed by the common plan of development or project, provided such boundary lies on or is within the boundary of property collectively owned or leased by one or more parties undertaking any or all of the construction activities; and

(4) All areas of ongoing, temporarily suspended, yet-to-be undertaken, and completed construction encompassing the totality of the construction activities, irrespective of whether any or all the construction activities are within compliance with this chapter.

(B) The City Manager shall have the right to redefine, for purposes of compliance with this chapter, the limits of a construction site in extent and amount necessary and sufficient in the judgment of the City Manager to prevent the actual or potential discharge of pollutants from the construction site to the MS4 or waters of the U.S., provided the limits lie on or within the boundary of property collectively owned or leased by one or more operators undertaking any or all of the construction activities at the site.

(C) A construction site shall cease to be a construction site only at such time that all requirements for closure of the construction site as specified by this chapter and in the storm water permit have been met, at which time the storm water permit will automatically terminate.

(D) The storm water permit coverage will automatically terminate two years after the permit issuance date. If a permit is needed beyond the termination or expiration date, a new permit must be issued.

(E) A construction site for which active and ongoing on-site construction activities have halted for a period of 21 continuous calendar days and for which proper closure actions as required by this chapter have not been conducted, shall be considered in violation of this chapter, unless the construction site owner and/or operator has demonstrated to the satisfaction of the City Manager that:

(1) Such lack of active and ongoing on-site construction activity is a result of only temporary suspension of activities; and

(2) Temporary stabilization practices were initiated no later than 14 calendar days after the site becoming inactive.

(F) Any and all owners and/or operators of a construction site and any and all other persons undertaking construction activities as a contractor or subcontractor at a

construction site shall use best management practices to control, reduce, and prevent, to the maximum extent practicable, the discharge of pollutants to the MS4 and/or waters of the U.S. The discharge of pollutants to the MS4 and/or waters of the U.S. from activities conducted by said operator, contractor, or subcontractor include but is not limited to: sediment, silt, earth, soil, dirt, sand and gravel; lime, liquids, solids, and semi-solids used for soil treatment, preparation, or amendment; concrete, slurries, grout, tar, and asphalt; construction vehicle and/or equipment cleaning wash waters; construction vehicle cleaning and wash waters; construction vehicle maintenance fluids such as hydraulic fluids, lubricants, fuels, brake fluids, and coolants; hazardous or extremely hazardous materials; materials resulting from repair, renovation, or demolition such as concrete, reinforcing bar, steel, wire, tar paper, roofing materials, sheet rock, plaster, wood, cellar dirt and carpeting; residual and surplus construction materials; paint thinner, paint equipment cleaner and wastewater from the cleaning of painting equipment and supplies; waste construction material packaging and containers; and construction trash, debris, and waste building materials, building products, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, washout waters, spills leaks, solvents, and dewatering activities. (Ord. 2010-2243, passed 3-15-10; Am. Ord. 2015-2091, passed 7-20-15)

#### § 54.31 ADOPTION OF THE STORM WATER MANAGEMENT GUIDANCE DOCUMENT.

The Brazoria County Storm Water Quality Coalition MS4 Construction Guidance Document is adopted to ensure storm water entering the navigable waters of the United States from the city's municipal separate storm sewer system does not violate the terms of the city's storm water national pollution discharge elimination system permit. The Guidance Document contains suggested best management practices that owners, developers, and contractors should consider adopting to help control and reduce pollutants that are transported by storm waters and technical guidance related to erosion and sediment controls and other measures to reduce pollutants from new construction projects. The manual can be found at [www.ms4web.com/bcswqc](http://www.ms4web.com/bcswqc). (Ord. 2010-2243, passed 3-15-10)

#### § 54.32 APPLICATION FOR STORM WATER PERMIT.

(A) The owner and/or operator of a construction site must apply for a storm water permit at least ten days prior to the start of any construction activity. Construction must be started no later than 180 calendar days after the date the storm water permit is issued. Failure to begin within 180 calendar days shall render the storm water permit void.

(B) The storm water permit must be posted at the construction site.

(C) The owner and/or operator of a construction site may apply for a change in the date of commencement of construction or the date of termination of construction specified in the storm water permit, this application must be made at least two working days prior to:

- (1) The date of the proposed change for commencement; and/or
- (2) The date of the termination date.

(D) If for any reason the storm water permit is suspended, revoked, terminated, or voided, construction activity at the site shall immediately cease.

(E) Application for amendment to a storm water permit can be made at any time ten or more working days prior to the time identified in the storm water permit for completion of construction activities, provided the person(s) making application is not in violation of this chapter. An appropriately modified storm water quality plan shall also be provided at the time of application for amendment to the City Manager. Construction undertaken in accordance with the amended storm water permit shall not commence until the amendment is approved by the City Manager. Approval of such amendment does not relieve the applicant or owner and/or operator from any or all administrative enforcement remedies, judicial enforcement remedies, enforcement actions, or other remedies allowed by law.

(F) In the event that the operator of the construction site changes within ten working days of the change, any and all storm water permits and storm water quality plans, permits, plans, or notices must be amended to reflect the must name of the new operator.  
(Ord. 2010-2243, passed 3-15-10) Penalty, see § 54.99

#### § 54.33 CONTENTS OF STORM WATER PERMIT.

- (A) The storm water permit shall contain the following:
- (1) Storm water quality plan;
  - (2) Address or other description of location of the construction site;
  - (3) Name, address, and telephone number of the construction site owner and/or operator and the operator's on-site representative, either the property owner or lessee, and name and address of general construction contractor, if different from property owner or lessee;
  - (4) Earliest date of commencement of construction activity;
  - (5) Proposed dates of termination of construction activity, completion of final stabilization activities, and closure of the site;
  - (6) Any other information the City Manager may deem necessary; and
  - (7) Certification by the applicant for the storm water permit that the information provided on the storm water permit application is true and accurate.
- (Ord. 2010-2243, passed 3-15-10)

#### § 54.34 STORM WATER PERMIT EXEMPTIONS.

Exemptions from the requirements for a storm water permit and storm water quality plan shall apply for the following situations or conditions:

- (A) The construction activity is undertaken at a single or multiple family residential property site for the sole purpose of maintenance of the residential property site; and
  - (B) The construction is necessary on an emergency basis because of imminent harm or endangerment to the public or environment, in which case the construction may be continued only so long as such imminent harm or endangerment or threat of harm or endangerment exists.
- (Ord. 2010-2243, passed 3-15-10)

#### § 54.35 WAIVER OF STORM WATER PERMIT REQUIREMENT.

(A) The City Manager may provide a waiver to the requirement for a storm water permit upon the written request of the owner and/or operator seeking such waiver. The waiver is to be provided only if the construction for which waiver is sought is demonstrated to the satisfaction of the City Manager to meet all of the following conditions:

(1) The waiver will not contribute to a violation of this chapter or any permit or license the city may hold to discharge storm water;

(2) The construction activity is of such size, extent, magnitude, or location as to neither allow, cause, or have potential to cause a significant discharge of sediments or other pollutants to the city's MS4 or waters of the U.S.;

(3) There is a compelling public interest for issuance of a waiver;

(4) It is in the general interest of the health and safety of people in the city or protection of the environment that such waiver be provided, such interest not to be based upon cost or economic considerations; and

(5) Other such conditions the City Manager may deem necessary to ensure that significant discharge of sediment and other pollutants does not occur.

(Ord. 2010-2243, passed 3-15-10)

#### § 54.36 STORM WATER QUALITY PLAN.

(A) The storm water quality plan shall be prepared in accordance with the Brazoria County Storm Water Quality Coalition MS4 Construction Guidance Document and best management practices (BMPs). The objective of the plan is to identify potential sources of pollution, including sediment, which will affect the quality of storm water discharges associated with construction and development. The plan must describe the implementation of BMPs that will be used to reduce the pollutants in storm water discharges associated with construction and post-development runoff. Storm water quality plans shall be retained on site during the course of construction and shall be available for inspection by the city upon request.

(B) Contents of storm water quality plan.

(1) Site description.

(a) Total area of the site, and total disturbed area, including off-site staging/storage areas;

(b) A description of the existing vegetation at the site, including coverage;

(c) The location of other sources of pollution, such as vehicle fueling, storage of chemicals, concrete washout areas, and the like; and

(d) The name of the receiving water(s) and description of any outfalls (size, type, and location), if the discharge is to a MS4, the name of the system, the location of the storm sewer discharge, and the ultimate receiving water(s).

(2) Construction documents.

(a) A description of the construction activity;

(b) A copy of the development plans; and

(c) Construction schedule.

(3) Best management practices (BMPs). The BMPs must include locations and descriptions of control measure for each phase of development, including before clearing

and grading activities begin; during all phases of construction; and post-construction/post development.

(4) Control measures.

(a) Construction phase control measures should include, but are not limited to, the following:

1. Temporary sediment control measures.
  - A. Silt fence.
  - B. Sand bag berms.
  - C. Hay bales.
  - D. Check dams.
  - E. Interceptor swales/dikes.
2. Temporary stabilization measures.
  - A. Temporary seeding.
  - B. Erosion control blankets/matting.
  - C. Mulch/compost.
  - D. Temporary sodding.
3. Final stabilization measures.
  - A. Permanent seeding.
  - B. Permanent sodding.
  - C. Impervious surfaces.

(C) Post-construction phase control measures must be incorporated into the Storm Water Quality Plan where necessary to preserve pre-development hydrologic regimes. These control measures do not apply to residential home construction. Post-construction phase control measures should include, but are not limited to, the following:

(1) Velocity dissipation measures.

(a) On-site.

1. Vegetated swales.
2. Check dams.
3. Vegetated filter strips.
4. Level spreaders.
5. Velocity dissipation structures.

(b) Off-site.

1. Surrounding local topography.
2. Concrete-lined drainage channels.
3. Low- velocity drainage channels.

(2) Pre-development peak flow preservation.

(a) On-site.

1. Detention basins/ponds.
2. Constructed wetlands.
3. Bio-retention.
4. Wet basins.

- (b) Off-site.
  - 1. In-line detention.
  - 2. Outfall pump systems.
  - 3. Off-site (regional) detention.
  - 4. Low- velocity drainage channels.

(3) Non-structural controls.

- (a) Adequate litter trash services/receptacles.
- (b) Street/parking lot sweeping/cleaning as necessary.

(Ord. 2010-2243, passed 3-15-10; Am. Ord. 2015-2091, passed 7-20- 15) Penalty, see § 54.99

§ 54.37 STORM WATER POLLUTION PREVENTION PLAN (SWP3).

(A) For a construction site that is one or more acres but less than five acres or is five or more acres and that is required by state or federal regulation to have a SWP3, the SWP3 shall be prepared in accordance with applicable state and federal regulations.

(B) Any SWP3 required by federal or state regulation shall be retained on site during all phases of construction and a copy must be submitted to the city/county. Failure to produce such required SWP3s shall be grounds for issuance of a stop work order.

(C) The City Manager may require additional information, plans, or specifications in a SWP3 for a construction site if the City Manager determines such additional information, plans, or specifications are necessary to prevent the discharge of pollutants to the MS4 or waters of the U.S.

(Ord. 2010-2243, passed 3-15-10) Penalty, see § 54.99

FEES

§ 54.50 FEES.

(A) The city may adopt reasonable fees for reimbursement of costs of implementing this chapter, which costs may include, but not limited to, the following:

(1) Fees for monitoring, inspection, and surveillance procedures, including the cost of collecting and analyzing discharges and reviewing monitoring reports submitted by dischargers;

(2) Fees for issuance of permits;

(3) Fees for review of notices and plans for construction, termination of construction, and storm water pollution prevention control, irrespective .of any acceptance or rejection of such notices or plans by the City Manager;

(4) Fees for conduct of site inspections by the city when requested by an operator of a site or facility, irrespective of whether such inspection is required by this chapter;

(5) Fees for site inspection by the city pursuant to determination of compliance to conditions of a conditional notice of termination of construction;

(6) Fees for responding to spills and releases of oil, hazardous and extremely hazardous substances, and other pollutants; and

(7) Other fees as the city may deem necessary to carry out the requirements contained in this chapter.

(B) All fees shall be adopted by separate resolution of the City Council of the city specifically referring to this section.

(C) The storm water permit fees and the fees for spills relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the city.

(Ord. 2010-2243, passed 3-15-10)

## CIVIL ENFORCEMENT

### § 54.60 RESPONSIBILITY OF OTHER ENTITIES.

(A) Any owner of a site of construction activity, whether or not he or she is an operator, is jointly and individually responsible for compliance with the requirements in this chapter.

(B) Any contractor or subcontractor on a site of construction activity, who is not an owner or operator, but who is responsible under his/her contract or subcontract, for implementing a best management practices control measure, is jointly and individually responsible for any willful or negligent failure on his or her part to adequately implement that control measure.

(Ord. 2010-2243, passed 3-15-10) Penalty, see § 54.99

### § 54.61 RIGHT OF ENTRY.

The City Manager and/or appointed representative may, where reasonable cause exists, with or without a warrant, enter upon any property for examination of the same to ascertain whether a violation of the requirements of this chapter exists and shall be exempt from any legal action or liability on account thereof.

(Ord. 2010-2243, passed 3-15-10)

### § 54.62 STOP WORK ORDER.

(A) Whenever the City Manager determines that there is a violation on a construction site of any provision of this chapter, or any order issued hereunder, the City Manager may issue a stop work order (SWO) for that construction site.

(B) Unless express written exception is made by the City Manager, the SWO shall prohibit any and all further construction activity at the site, and shall bar any further inspection or approval by the city of any work associated with a building permit, storm water permit, or any other city approval necessary to commence construction or to assume occupancy at the site.

(C) Issuance of a SWO shall not be a bar against, or a prerequisite for, taking any other action against the construction site owner and/or operator.

(Ord. 2010-2243, passed 3-15-10) Penalty, see § 54.99

### § 54.63 NOTIFICATION OF VIOLATION (NOV).



(A) When the City Manager finds that any person has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, the city may serve upon that person a written NOV. Within ten calendar days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention of recurrence thereof, including specific required actions, shall be submitted by the alleged violator to the City Manager. If the alleged violator denies that any violation occurred, or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention shall be submitted to the City Manager within ten calendar days of receipt of the notice.

(B) Submission of an explanation or plan in no way relieves the alleged violator of liability for any violations of this chapter or any state or federal regulation occurring before or after receipt of the NOV.

(C) Nothing in this section shall limit the authority of the City Manager to take any action, including emergency action or any other enforcement action, without first issuing a NOV. (Ord. 2010-2243, passed 3-15-10) Penalty, see § 54.99

#### § 54.64 CONSENT ORDERS.

The City Manager may enter into consent orders, assurances of voluntary compliance, or other written agreements with the owner and/or operator for noncompliance with any provision in this chapter or any order issued hereunder. Such agreements may include specific action to be taken to correct the noncompliance within a time period specified by the agreement. Such agreements shall have the same force and effect as administrative orders issued pursuant to this chapter and shall be judicially enforceable.

(Ord. 2010-2243, passed 3-15-10) Penalty, see § 54.99

#### § 54.65 COMPLIANCE ORDER.

(A) When the City Manager finds that any person has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, the City Manager may issue a compliance order to the violator directing that the violator come into compliance with this chapter within a specified time limit. Compliance orders also may contain other requirements to address the noncompliance, including self-monitoring and implementation of best management practices designed to minimize the amount of pollutants discharged to the MS4 and waters of the U.S.

(B) A compliance order does not relieve a person of liability for any violation, including any continuing violation.

(C) Issuance of a compliance order shall not be a bar against, or a prerequisite for, any other action against the violator.

(Ord. 2010-2243, passed 3-15-10) Penalty, see § 54.99

#### § 54.66 REMEDIATION, ABATEMENT AND RESTORATION ORDERS.

(A) When the City Manager finds that any person has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, and the City Manager has reasonable evidence to suspect that such a violation has adversely affected the MS4 or waters of the U.S., the City Manager may issue a remediation, abatement and restoration

order to the violator directing said violator to undertake and implement any appropriate action the City Manager may designate to remediate or abate any adverse effects of the violation upon the MS4, and to restore any part of the MS4 within the city that has been harmed. Such remediation, abatement, and restoration actions may include but shall not be limited to:

(1) Monitoring, assessment, and evaluation of the adverse effects and determination of the appropriate remedial, abatement, or restoration actions;

(2) Confinement, removal, cleanup, treatment, and disposal of any discharged or released pollution or contamination;

(3) Prevention, minimization, or mitigation of any damage to the public health or the environment that may result from the violation; and

(4) Restoration or replacement of city property or natural resources damaged by the violation.

(B) The remediation, abatement, and restoration order may direct that the remediation, abatement, or restoration be accomplished on a specified compliance schedule and be completed within a specified period of time.

(C) The cost for preparation, implementation, construction, and maintenance of any remediation, abatement, or restoration as may be ordered by the City Manager shall be borne by the person to whom the City Manager has issued such order.

(D) An order issued under this section does not relieve the violator of liability for any violation, including any continuing violation.

(E) Issuance of an order under this section shall not be a bar against, or a prerequisite for, taking any other action against any responsible party.

(Ord. 2010-2243, passed 3-15-10) Penalty, see § 54.99

#### § 54.67 EMERGENCY CEASE AND DESIST ORDERS.

(A) When the City Manager finds that any person has violated, or continues to violate, any provision of this chapter, or any order issued hereunder, or that the person's past violations are likely to recur, and that the violation(s) has caused or contributed to an actual or threatened discharge to the MS4 or waters of the U.S. which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the City Manager may issue an emergency cease and desist order to the violator directing the violator to immediately cease and desist all such violations and directing the violator to:

(1) Immediately comply with all chapter requirements;

(2) Terminate any discharges which the City Manager determines to present an imminent or substantial endangerment to persons or to the environment; and

(3) Take such appropriate preventative action as may be needed to properly address a continuing or threatened violation, including immediately halting operations, terminating the discharge or both.

(B) Any person to which an emergency cease and desist order has been directed, shall, upon receipt of such order, immediately take action to stop or eliminate the endangering discharge. In the event of that person's failure to immediately comply voluntarily with the order, the City Manager may take such action(s) as deemed necessary to prevent or

minimize harm to the MS4 or waters of the U.S. or endangerment to persons or to the environment. Such actions may include, but are not limited to, immediate termination of water supply, sewer connection or other municipal utility service provided to said person; to any facility owned, leased or operated all or in part by said person; or to any site for which said person is all or in part an owner or lessee.

(C) The City Manager shall allow the person to whom an emergency cease and desist order has been issued to recommence discharges when the City Manager determines that the period of endangerment has passed, unless further termination proceedings are initiated against the person to whom the order was issued.

(D) A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a written statement, in a form as may be acceptable to the City Manager, describing the causes of the harmful discharge and measures taken or to be taken within a timely fashion to prevent any future occurrence, to the City Manager within 14 calendar days of receipt of the emergency order.

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

(Ord. 2010-2243, passed 3-15-10) Penalty, see § 54.99

#### § 54.68 APPEALS.

(A) Any person adversely affected by a decision under this chapter, with the exception of a citation, may appeal the decision to the City Manager or the City Manager's designee within 15 calendar days from the date of the adverse decision. The appeal must be in writing and set forth specifically why the decision should be considered for relief.

(B) The effect of any order, except for an emergency cease and desist order, shall be stayed pending the appeal unless the City Manager makes a written determination to the contrary. An emergency cease and desist order shall not be stayed pending appeal.

(C) (1) Within 14 calendar days of the appeal, the City Manager or his or her designee shall either:

- (a) Grant the petition and withdraw or modify the order;
- (b) Deny the petition if there is no material issue of fact; or
- (c) Schedule a hearing on the petition.

(2) Written notice of the hearing shall be sent to the appellant. At the hearing, any interested party may present evidence and testify.

(D) After the hearing, the City Manager shall grant the petition and withdraw or modify the order or deny the petition.

(E) The City Manager's ruling shall be final.

(Ord. 2010-2243, passed 3-15-10)

#### CRIMINAL PENALTIES

#### § 54.70 PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public

health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisances may be taken.

(Ord. 2010-2243, passed 3-15-10)

§ 54.71 REMEDIES NOT EXCLUSIVE.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state, or local law.

(Ord. 2010-2243, passed 3-15-10) Penalty, see § 54.99

§ 54.99 PENALTY.

Any person who violates a provision of this chapter or any order issued hereunder shall be subject to a fine as set forth in § 10.99 of this code. No culpable mental state is required.

(Ord. 2010-2243, passed 3-15-10)