

Ordinance amending City Code Chapter 55, Article XI, Commercial and Industrial Waste Disposal and Pretreatment, to comply with requirements of the U.S. Environmental Protection Agency and Texas Commission on Environmental Quality Pretreatment Program for Industrial User Discharges to the Wastewater System by adding required definitions for best management practices, daily and monthly limits, process wastewater; amending sampling collection requirements, and providing for compliance orders; and providing for penalties up to \$2,000 per day for violations of the ordinance

Whereas, the National Pretreatment Program (40 CFR 403) requires industrial dischargers to use treatment techniques and management practices to reduce or eliminate the discharge of pollutants to sanitary sewers;

Whereas, the City first adopted its Pretreatment Ordinance in 1993, which is codified in Chapter 55, Article XI of the Corpus Christi Code of Ordinances;

Whereas, the City recently completed an evaluation of its Pretreatment Ordinance and finds that revisions are necessary to comply with the regulations of the National Pretreatment Program as amended;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF CORPUS CHRISTI CITY COUNCIL:

SECTION 1. That the City Code of Ordinances, Chapter 55, Article XI is amended by deleted the struck through text and inserting the underlined text, as shown in redline text below:

ARTICLE XI. - COMMERCIAL AND INDUSTRIAL WASTE DISPOSAL AND PRETREATMENT

Sec. 55-140. - General provisions.

Sec. 55-141. - General sewer use requirements.

Sec. 55-142. - Pretreatment of wastewater.

Sec. 55-143. - Wastewater discharge permit eligibility and issuance process.

Sec. 55-144. - Reporting requirements.

Sec. 55-145. - Compliance monitoring.

Sec. 55-146. - Enforcement.

Sec. 55-147. - Affirmative defenses to discharge violations of federal categorical pretreatment standards and local limits.

Sec. 55-148. - Fees.

Sec. 55-149. - Miscellaneous provisions.

Sec. 55-140. - General provisions.

(a)—*Purpose and policy.* This article sets forth uniform requirements for users of the wastewater collection system and Publicly Owned Treatment Works (POTW) of the City of Corpus Christi and enables the city to comply with all applicable state and federal laws including the Clean Water Act (33 U.S.C. 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this article, in facilitating the city in its role as a federally mandated control authority, 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;
- (5)—To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;—
- (6)—To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW; and—
- (7)—To enable the city to comply with its ~~NPDESTPDES~~ permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject.

This article shall apply to all industrial users of the POTW. The article authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance and enforcement activities; establishes administrative review procedures; requires industrial user reporting; ~~and~~ provides for the setting of fees for the equitable distribution of costs resulting from the program established herein and authorizes the director to deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by Industrial Users where such contributions do not meet applicable pretreatment standards and Requirements or where such contributions would cause the POTW to violate its TPDES permit.

(b)—*Administration.* Except as otherwise provided herein, the director shall administer, implement and enforce the provisions of this article. Any powers granted to or duties imposed upon the director may be delegated by the director to other city personnel.

(c)—*Definitions.* Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated.

Abnormal wastewater. means any industrial waste having a suspended solids, biochemical oxygen demand or chemical oxygen demand content in excess of that found in normal wastewater but which is otherwise acceptable into the POTW under the terms of this article.

Abnormal wastewater surcharge means the charge, in addition to the usual monthly charge for sanitary sewer services, levied against any person for services rendered for collection and treatment of abnormal wastewater to defray the added cost of transporting and treating such abnormal wastewater.

Act or the act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

~~*Approval authority* means regional administrator of the U.S. Environmental Protection Agency, the Texas Water Commission upon delegation of federal authority, or the Texas Commission on Environmental Quality upon delegation of federal authority, or successor agency delegated such authority. The director in an NPDES (National Pollution Discharge Elimination System) state with an~~

~~approved state pretreatment program and the appropriate regional administrator in a non-NDES state or NPDES state without an approved state pretreatment program.~~

Approval authority means the Executive Director of the Texas Commission on Environmental Quality or his duly designated representative.

Authorized representative of the industrial user means:

(1) ~~—If the industrial user is a corporation, authorized representative shall mean:—~~

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 (1) or more manufacturing, production, or operation facilities;—~~

b. The manager of one (1) or more manufacturing, production, or operation facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(2) ~~—If the industrial user is a partnership, or sole proprietorship, an authorized representative shall mean a general partner, managing partner, or proprietor, respectively;~~

(3) ~~—If the industrial user is a federal, state or local governmental facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.~~

(4) ~~—The individuals described in subsections a1 through e3 of this definition 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 director of wastewater operations.~~

Best Management Practices (BMP) means The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 55-141(a) of this article and in 40 CFR 403.5(a)(1) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty (20) degrees centigrade expressed in terms of mass and concentration (milligrams per liter (mg/l)).

Categorical Industrial User means an industrial user that is subject to Categorical Pretreatment Standards according to 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N.

Categorical pretreatment standard or categorical standard means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with sections 307(b) and (c) of the act (33 U.S.C. 1317) which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

City means the City of Corpus Christi or the City Council of Corpus Christi.

Chemical oxygen demand (COD) means the measure of the oxygen consuming capacity of inorganic matter present in the water or wastewater expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

Color means the optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred (100) ~~per cent~~percent transmittance is equivalent to zero (0.0) optical density.

Composite sample means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

Control authority means the City of Corpus Christi.

Corrosive waste means any character of waste, whether liquid, gaseous or solid, which can cause actual physical damage or destruction to any public storm drain or sanitary sewer the POTW or which prevents or materially retards treatment of sewage in the sewage treatment plant.

Daily discharge means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.

Daily maximum means the arithmetic average of all effluent samples for a pollutant collected during a calendar day.

Daily maximum limit means the maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Director or director of wastewater operations means the person designated by the city manager to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this article, and includes the director's authorized representative.

Environmental protection agency or EPA means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the regional water management division director or other duly authorized official of said agency.

Existing source means any source of discharge, the construction or operation of which commenced prior to the publication 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.

Grab sample means a sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream within a time frame not to exceed fifteen (15) minutes.

Indirect discharge or *discharge* means the introduction of nondomestic pollutants into the POTW from any nondomestic source regulated under section 307(b), (c) or (d) of the act.

Industrial user ~~or user~~ or user means a source of an "indirect discharge," as defined by 40 CFR 403.3(hj).

Instantaneous maximum allowable discharge limit means the maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means a discharge which alone or in conjunction with a discharge or discharges from other sources:

(1) ~~—~~ Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and ~~—~~

(2) ~~—~~ Therefore is a cause of: ~~—~~

a. ~~—~~ A violation of the city's ~~NPDES~~ NPDESTPDES permit ~~or state permit~~; ~~;~~

b. ~~—~~ A violation of any other federal, state, or local regulation of water quality standards; or ~~—~~

c. ~~—~~ 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):

1. ~~—~~ Section 405 of the Clean Water Act; ~~—~~

2. ~~—~~ The Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA);

3. ~~—~~ Any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA; ~~—~~

4. ~~—~~ The Clean Air Act; ~~—~~

5. ~~—~~ The Toxic Substances Control Act; or ~~—~~

6. ~~—~~ The Marine Protection, Research and Sanctuaries Act. ~~—~~

Medical waste means isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Monthly average means the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that calendar month.

Monthly average limit means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

New source means:

(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 subsection (1) of this definition directly above, but otherwise alters, replaces, or adds to existing process or production equipment.

(3)—Construction of a new source as defined under this paragraph 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, or—

2.—_Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment, 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 paragraph.

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material intermediate product, waste product, or finished product.

~~*Normal sewage* means sewage, which when analyzed, shows by weight, a daily average of not more than two thousand eighty-five (2,085) pounds per million gallons (two hundred fifty (250) mg/l) of suspended solids, and not more than two thousand eighty-five (2,085) pounds per million gallons (two hundred fifty (250) mg/l) of biochemical oxygen demand and not more than four thousand six hundred eighty-seven (4,687) pounds per million gallons (five hundred sixty-two (562) mg/l) of chemical oxygen demand, and which is otherwise acceptable into a sanitary sewer under the terms of this article.—~~

Normal wastewater means sewage, which when analyzed, shows by weight, a daily average of not more than two thousand eighty-five (2,085) pounds per million gallons (two hundred fifty (250) mg/l) of suspended solids and not more than two thousand eighty-five (2,085) pounds per million gallons (two hundred fifty (250) mg/l) of biochemical oxygen demand and not more than four thousand six hundred eighty-seven (4,687) pounds per million gallons (five hundred sixty-two (562) mg/l) of chemical oxygen demand, and which is otherwise acceptable into a sanitary sewer under the terms of this article.

Pass through means a discharge which exits the POTW into waters of the U.S. 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 ~~NPDESTPDES~~ permit (including an increase in the magnitude or duration of a violation), or violation of any other federal, state or local water quality regulation.

Person means 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 means a measure of the acidity or alkalinity of a substance, expressed in standard units.

Pollutant means any dredged spoil, solid waste, incinerator residue, ~~filter backwash~~, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or ~~dischargeddiscarded~~ equipment, rock, sand, cellar dirt, ~~municipal~~, agricultural, and industrial wastes, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor), and any other harmful or objectionable material.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the 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 means any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

Pretreatment standards or standards means ~~pretreatment standards shall mean prohibitive~~ prohibited discharge standards, categorical pretreatment standards, and local limits.

Process Wastewater means any water that, during manufacturing or processing, comes into direct contact with or results from production or use of any raw material, intermediate product, finished product, or waste product.

Prohibited discharge standards or prohibited discharges means absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 55-141(a) of this article.

Publicly owned treatment works means a "treatment works" as defined by section 212 of the act (33 U.S.C. 1292), which is owned by the ~~state or municipality~~ city. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances ~~which~~ that convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.

Septic tank waste means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage means human excrement and gray water (household showers, dishwashing operations, etc.).

Shall is mandatory; *may* is permissive or discretionary.

Significant industrial user shall apply to: (a) industrial users subject to categorical pretreatment standards; and (b) any other industrial user that (i) discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater, (ii) contributes a process wastestream which makes up five (5) ~~per cent~~percent or more of the average dry weather hydraulic or organic capacity of the treatment plant or, (iii) is designated as significant by the city on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

~~{Singular; plural-};~~ 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.

Slug load means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 55-141(a) of this article or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a noncustomary batch discharge-, which has a reasonable potential to cause interference or pass through or in any other way violate the POTWs regulations, local limits or permit conditions.

Standard Industrial Classification (SIC) Code means a classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

Stormwater means any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and ~~which~~that is removable by laboratory filtering.

Texas Commission on Environmental Quality means the Texas Commission on Environmental Quality, or an authorized representative of the commission.

Toxic pollutant means one of the pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of section 307 (33 U.S.C. 1317) of the act, and as such list may be amended, modified, or enlarged.

Treatment plant effluent means any discharge of pollutants from the POTW into waters of the state or other locations as detailed in federal or state permits.

Wastewater means liquid and water-carried industrial wastes, and sewage (human excrement and graywater) from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater treatment plant or treatment plant means that portion of the POTW designed to provide treatment of sewage and industrial waste.

(d)—~~Abbreviations.~~ The following abbreviations shall have the designated meanings:

BMP—Best Management Practices

BOD—Biochemical oxygen demand

COD—Chemical oxygen demand

CFR—Code of Federal Regulations

EPA—U.S. Environmental Protection Agency

gpd—Gallons per day

l—Liter

mg—Milligrams

mg/l—Milligrams per liter

~~NPDES—National~~TPDES—Texas 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 U.S.C. 6901 et seq.)

TSS—Total suspended solids

TCEQ—Texas Commission on Environmental Quality

~~TSS—Total suspended solids~~

USC—United States Code

(Ord. No. 21666, § 1, 6-1-1993; Ord. No. 25377, §§ 1—4, 7-22-2003; ~~Ord. No. 031700, § 2, 3-19-2019~~)

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Sec. 55-141. - General sewer use requirements.

(a)—*Prohibited discharge standards.* No industrial 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 industrial users of the POTW whether or not they are subject to categorical pretreatment standards or any other federal, state or local pretreatment standards or requirement. Furthermore, no industrial user may contribute the following substances to the POTW:

- (1)—Pollutants which create a fire or explosive hazard in the municipal wastewater collection system and POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty (140) degrees Fahrenheit (sixty (60) degrees ~~Celsius~~celsius) using the test methods specified in 40 CFR 261.21.
- (2)—Any wastewater having a pH less than 5.0 or more than 10.0, or otherwise causing corrosive structural damage to the POTW or equipment, or endangering city personnel.
- (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 one-half ($\frac{1}{2}$) inch or one and twenty-seven hundredths (1.27) centimeters in any dimension.
- (4)—Any wastewater containing pollutants, including oxygen demanding pollutants (BOD, COD, 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 either the POTW, or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals.
- (5)—Any wastewater having a temperature greater than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees ~~Celsius~~celsius), or 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 one hundred four (104) degrees Fahrenheit (forty (40) degrees ~~Celsius~~celsius).
- (6)—Petroleum oil or nonbiodegradable cutting oil.—
- (7)—Products of mineral oil origin in amounts that will cause interference or pass through.—
- (8)—Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (9)—Any trucked or hauled pollutants, except at discharge points designated by the city in accordance with ~~subsection~~section 55-142(e) of this article and article XIII, section 55-160 et seq., of this Code.
- (10)—___ Any 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, a hazard to life, or to prevent entry into the sewers for maintenance and repair.
- (11)—___ Any 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~~TPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten (10) ~~per cent~~percent from the seasonably established norm for aquatic life.
- (12)—___ Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the director in compliance with applicable federal, state or local regulations.

(13)—~~Storm-water~~ Stormwater, surface water, ground water, artisan well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the director.

(14)— Any sludges, screenings, or other residues from the pretreatment of industrial wastes.—

(15)— Any medical wastes, except as specifically authorized by the director in a wastewater discharge permit.—

(16)— Any wastewater causing the treatment plant's effluent to fail a toxicity test.—

(17)— Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the POTW.—

(18)— Any discharge of fats, oils, or greases of animal or vegetable origin is limited to two hundred (200) mg/l.—

(19)— Any wastewater which has a reasonable potential for adversely affecting the POTW's operation as determined by the director.—

Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW. Floor drains shall be so located and protected as to prevent intrusion of stormwater.

(b)—*Federal categorical pretreatment standards.* The ~~National Categorical Pretreatment Standards~~ national categorical pretreatment standards found in the Code of Federal Regulations at 40 CFR Chapter I, Subchapter N, Parts 405-471, and as they shall be amended and enlarged, are hereby incorporated.

(c)—*Federal, state, and local requirements.* Where federal or state pretreatment requirements are more stringent than those set forth in this article, the more stringent requirements shall apply to users, and such federal and/or state standards are hereby fully incorporated verbatim into this article, for all purposes.

(d)—*Specific local pollutant limitations.*

(1)—The following pollutants limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following ~~maximum allowable~~ discharge limits: (expressed as daily maximum limits).

0.634 mg/l—arsenic

0.018 mg/l—cadmium

2.980 mg/l—chromium, total

0.350 mg/l—copper

0.130 mg/l—cyanide

0.511 mg/l—lead

0.000 mg/l—mercury

~~1,100~~100.00 mg/l—phenols

0.590 mg/l—nickel

0.050 mg/l—silver

1.476 mg/l—zinc

(2)—Concentrations apply at the point where the industrial waste is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. For mercury, compliance will be measured at the minimum analytical level (MAL) or 0.0002 milligrams/liter (mg/l). At his discretion, the director may impose mass limitations in addition to or in place of the concentration based limitations above.

(e)—*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 if deemed necessary to comply with the objectives presented in ~~subsection~~section 55-140(a) of this article or the general and specific prohibitions in ~~subsection~~section 55-141(a) of this ~~section~~article.

(f)—*Dilution.* No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The director ~~over wastewater operations~~ may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. No. 21666, § 1, 6-1-1993; Ord. No. 22583, § 6, 5-28-1996; Ord. No. 25377, §§ 5, 6, 7-22-2003; ~~Ord. No. 031700, § 3, 3-19-2019~~)

Sec. 55-142. - Pretreatment of wastewater.

(a)—*Pretreatment facilities.* Industrial users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in ~~subsection~~section 55-141(a) within the time limitations specified by the EPA, the state, or the director, 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 industrial 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 industrial user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the city under the provisions of this article.

(b)—*Additional pretreatment measures.*

(1)—Whenever deemed necessary, the director ~~over wastewater operations~~ may require industrial 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 industrial user's compliance with the requirements of this article.

(2)—The director, in his discretion, may require each person discharging into the POTW greater than twenty-five thousand (25,000) gallons per day or greater than five (5) ~~per cent~~percent of the average daily flow in the POTW, to install and maintain, on his property and at his expense, a suitable storage and flow control facility to insure equalization of flow, the design and regulation of which shall be directed by the director. A wastewater discharge permit may be issued solely for flow equalization.

(3)—Grease, oil and sand interceptors shall be provided in comportment with chapter 14 of this Code, as such provision stands and may hereafter be modified or amended.

(4)—Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(c)—*Accidental discharge/slug control plans.* The director may require any industrial user to develop and implement an accidental discharge/slug control plan. ~~At least once every two (2) years~~Within one (1) year of designation as a significant industrial user, the director shall evaluate whether each significant industrial user needs such a plan. Users shall retain, and make available for inspection and copying, all record of activities associated with slug control evaluation and results. Any industrial user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:

(1)—Description of discharge practices, including nonroutine 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 prohibited discharges in ~~subsection~~section 55-141(a) of this article.

a.—*Telephone notices.* At minimum, such plan shall require the user to immediately telephone and notify the POTW of an accidental or slug discharge. Such verbal notice shall include location of discharge, type of waste concentration and volume, and corrective actions.

b.—*Written report.* Within five (5) days following an accidental discharge, the user shall submit to the city a detailed written report describing the nature and 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 expenses, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed by this article or other applicable law.

c.—*Notice to employees.* As part of the accidental discharge protection plan, the director may require a notice to be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedures.

(4)—If necessary, 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~~*run-off*, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(d)—*Tenant responsibility.* Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this article.

(e)—*Hauled wastewater.* Septic tank waste may be accepted into the POTW at a designated receiving structure within the treatment plant area at such times as are established by the director, provided such waste disposal is made in compliance with article XIII, section 55-160 et seq., of this Code, and does not violate any provision of section 55-141 of this article or any other requirements of the city.

(f)—*Vandalism.* No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in section 55-146, below.

(Ord. No. 21666, § 1, 6-1-1993; Ord. No. 25377, § 7, 7-22-2003; Ord. No. 031700, § 3, 3-19-2019)

Sec. 55-143. - Wastewater discharge permit eligibility and issuance process.

(a)—*Wastewater survey.* When requested by the director all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The director is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of the article.

(b)—*Requirement.*

(1)—It shall be unlawful for any significant industrial user to discharge wastewater into the city's POTW without first obtaining a wastewater discharge permit from the director. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in section 55-146. 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.

(2)—The director may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this article.

(c)—*New connections.* Any significant industrial user proposing to begin or recommence discharging industrial wastes into the POTW must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin.

(d)—*Application contents.*

(1)—In order to be considered for a wastewater discharge permit, all industrial users required to have a wastewater discharge permit must submit the information required by section 55-144(a)(2). The director shall approve a form to be used as a permit application.

(2)—In addition, the following information may be requested:—

a.—_Description of activities, facilities, and plant processes on the premises, 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.

b.—_Number and type of employees, hours of operation, and proposed or actual hours of operation of the pretreatment facility.—

c.—_Each product produced by type, amount, process or processes, and rate of production.—

d.—_Type and amount of raw materials processed (average and maximum per day).—

e.—_The site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

f.—_Time and duration of the discharge.—

g.—_Any other information as may be deemed necessary by the director to evaluate the wastewater discharge permit application.—

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

(e)—*Application signatories and certification.*— All wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user.

"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."

(f)—*Decisions.* The director will evaluate the data furnished by the industrial user and may require additional information. Within ninety (90) days of receipt of a complete wastewater discharge permit application, the director will determine whether or not to issue a wastewater discharge permit. If no

determination is made within this time period, the application will be deemed denied, unless the director notifies the applicant that the time frame for decision has been extended due to need for additional evaluation time. The director may deny any application for a wastewater discharge permit.

(g)—*Duration.* Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(h)—*Contents.* Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the director 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, protect ambient air quality, and protect against damage to the POTW.

(1)—Wastewater discharge permits must contain the following conditions:—

a.—_A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years.—

b.—_A statement that the wastewater discharge permit is nontransferable 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.

c.—_Effluent limits, including BMPs, applicable to the user based on applicable standards in federal, state, and local law.—

d.—_Self-monitoring, sampling, reporting, notification, and record keeping requirements, all expenses for such requirements to be paid by permittee. 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.

e.—_Statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

f.—_Permittee agrees to indemnify and pay the city for the following costs incurred by the city, in the event of a user's permit violation:

1.—_Attorney's fees;—

2.—_Costs for any and all laboratory and investigation expenses;—

3.—_Penalties and fines incurred by the city to the federal and state governments arising from violation of any of the city's discharge permits as a result of permittee's violation(s).

g.—_Requirement for permittee to immediately notify the POTW in the event of a failure of pretreatment facility or pretreatment equipment.—

h. Requirements to control slug discharge, if determined by the director to be necessary.

(2) ~~Wastewater discharge permits may contain, but need not be limited to, the following:—~~

a. ~~Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.—~~

b. ~~Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.~~

c. ~~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.~~

d. ~~Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges.~~

e. ~~Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.—~~

f. ~~The unit charge or schedule of industrial user charges and fees for the management of the wastewater discharged to the POTW.—~~

g. ~~Requirements for installation and maintenance of inspection and sampling facilities and equipment.—~~

h. ~~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.~~

i. ~~Other conditions as deemed appropriate by the director to ensure compliance with this article, and state and federal laws, rules, and regulations.~~

(i) ~~Appeals.~~ Any person, including the industrial user, may petition the city manager to reconsider the terms of a wastewater discharge permit within fifteen (15) days of its issuance.

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

(2) ~~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.~~

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

(4) ~~If the city manager fails to act within thirty (30) 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 action for purposes of council review.~~

(5)—Aggrieved parties may appeal to the city council, which appeal shall be perfected by filing a sworn notice of appeal with the city secretary within fifteen (15) days from the city manager's final decision or deemed denial.

(j)—*Modification.*

(1)—The director 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 industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance.

c.—_A change in the POTW or in treatment demands of 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, or violation of city ordinance pertaining to waste treatment.

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.—

i.—_To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

j.—_User's discharge has caused the POTW to violate federal or state permit requirements.—

(2)—The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

(k)—*Transfer.*

(1)—Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least thirty (30) days' advance notice to the director and the director approves the wastewater discharge permit transfer. The notice to the director must include a written certification by the new owner and/or operator which:

a.—_States that the new owner and/or operator has no immediate intent to change the facility's operations and processes.—

b.—_Identifies the specific date on which the transfer is to occur.—

c.— Acknowledges full responsibility for complying with the existing wastewater discharge permit and assuming the liabilities thereof, including joint and several responsibility with the former permittee for pending or unresolved notices of permit and ordinance violations.

(2)—Unresolved allegations of permit and ordinance violations and/or unpaid indemnity obligations, fines, or penalties owed by the permittee shall be grounds for the director's denial of permit transfer. The director, in his discretion, may deny transfer of a permit when such grounds are present.

(3)—Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable on the date of facility transfer.—

(l)— *Revocation.*

(1)—Wastewater discharge permits may be revoked for the following reasons:—

a.— Failure to notify the city of significant changes to the wastewater prior to the changed discharge.—

b.— Failure to provide prior notification to the city of changed condition pursuant to section 55-144(e).

c.— Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.—

d.— Falsifying self-monitoring reports, or withholding of information material to such reports.

e.— Tampering with monitoring equipment.—

f.— Refusing to allow the city timely access to the facility premises and records.—

g.— Failure to meet effluent limitations.—

h.— Failure to pay fines, penalties, or indemnification obligations.—

i.— Failure to pay sewer charges.—

j.— Failure to meet compliance schedules.—

k.— Failure to complete a wastewater survey or the wastewater discharge permit application.

l.— Failure to provide advance notice of the transfer of a permitted facility.—

m.— Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the article.—

n.— Failure to notify the POTW of a failure in pretreatment facility or equipment.—

(2)—Wastewater discharge permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit.

(m)— *Reissuance*. A significant industrial user shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application in accordance with section 55-143(e) a minimum of sixty (60) days prior to the expiration of the industrial user's existing wastewater discharge permit.

(n)— *Regulation of wastes received from other jurisdictions*.

(1)—If another jurisdiction, or user located within another jurisdiction, contributes wastewater to the POTW, the director shall enter into an inter local cooperative agreement with the contributing jurisdiction.

(2)—Prior to entering into an agreement required above, the director shall request the following information from the contributing jurisdiction:

a.— A description of the quality and volume of wastewater discharged to the POTW by the contributing jurisdiction;—

b.— An inventory of all users located within the contributing jurisdiction that are discharging to the city POTW; and—

c.— Such other information as the director may deem necessary.—

(Ord. No. 21666, § 1, 6-1-1993; Ord. No. 25377, § 8, 7-22-2003)

Sec. 55-144. - Reporting requirements.

(a)— *Baseline monitoring reports*.

(1)—Within either one hundred eighty (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 significant industrial users subject to such categorical pretreatment standards, and 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 subsection (a)(2), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become industrial 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 subsection (a)(2), below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(2)—The industrial user shall submit the information required by this section including:—

a.— *Identifying information*. The name and address of the facility including the name of the operator and owners.

b.— *Wastewater discharge permits*. A list of any environmental control wastewater discharge permits held by or for the facility.

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

d.— *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).

e.— *Measurement of pollutants.*

1.— Identify the categorical pretreatment standards applicable to each regulated process.—

2.— Submit 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 subsection (j). Where the standard requires compliance with a BMP or pollution prevention alternative, the industrial user shall submit documentation as required by the director or the applicable standards to determine compliance with the standard.

3.— Sampling must be performed in accordance with procedures set out in subsection 55-144(k).—

4. In cases where the pretreatment standard requires compliance with a Best Management Practice or pollution prevention alternative, the industrial user shall submit documentation as required by the City or the applicable pretreatment standards to determine compliance with the pretreatment standard.

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

g.— *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M- must be provided. 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 subsection 144(b) of this article.

h.— *Baseline monitoring reports.* All baseline monitoring reports must be signed and certified in accordance with section 55-143(e).

(b)—*Compliance schedule progress report.* The following conditions shall apply to the schedule required by subsection (a)(2)g. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation). The time frame for progress increments shall not exceed nine (9) months between increments. Preapproval of the director must be secured for the increment performance schedule. The industrial user shall thereafter submit a progress report to the director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress as preapproval by the director, the reason for any delay, and, if appropriate, the steps being taken by the industrial user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the director.

(c)—*Report on compliance with categorical pretreatment standard deadline.* Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to such pretreatment standards and requirements shall submit to the city a report containing the information described in subsection (a)(2)d. through (a)(2)f. For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the industrial user's long term production rate. For all other industrial 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 industrial user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 55-143(e).

(d)—*Periodic compliance reports for all significant users.*

(1)—Any significant industrial user subject to a pretreatment standard shall, at a frequency determined by the director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the industrial user must submit documentation required by the director or the pretreatment standard necessary to determine the compliance status of the industrial user. All periodic compliance reports must be signed and certified in accordance with section 55-143(e).

(2)—All wastewater samples must be representative of the industrial user's discharge during the period covered by the report. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.

(3)—If an industrial user subject to the reporting requirement in and of this section monitors any regulated pollutant at a regulated monitoring location more frequently than required by the POTW, using the procedures prescribed in subsection (k) of this articlesection, the results of this monitoring shall be included in the report. _

(e)—*Report of changed conditions.* Each industrial user is required to notify the director of any planned significant changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater or any changes at their facility affecting the potential for slug discharge at least thirty (30) days before the change.

(1)—The director may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 55-143(e).

(2)—The director may issue a wastewater discharge permit under section 55-143 or modify an existing wastewater discharge permit under section 55-143(j).

(3)—No industrial user shall implement the planned changed condition(s) until and unless the director has responded to the industrial user's notice.

(4)—For purposes of this requirement, flow increases of ten (10) per centpercent or greater and the discharge of any previously unreported pollutants may be deemed significant.

(f)—*Reports of potential problems.*

(1)—In the case of any discharge including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load which may cause potential problems for the POTW (including a violation of the prohibited discharge standards in section 55-141(a) of this article), it is the responsibility of the industrial user to immediately telephone and notify the city of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.

(2)—Within five (5) days following such discharge, the industrial user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this article.

(3)—Failure to notify the city of potential problem discharges shall be deemed a separate violation of this article, and shall be cause for revocation of the user's wastewater discharge permit should such discharge result in damage to or interference with the POTW.

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

(g)—*Reports from nonsignificant industrial users.* All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the city as the director may require.

(h)—*Notice of violation/repeat sampling and reporting.* If sampling performed by an industrial user indicates a violation, the industrial user must notify the ~~control authority~~city within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the ~~control authority~~city within thirty (30) days after becoming aware of the violation. The industrial user is not required to resample if the POTW performs monitoring at the industrial user's facility at least once a month, or if the POTW performs sampling between the industrial user's initial sampling and when the industrial user receives the results of this sampling, or if the POTW has performed the sampling and analysis in lieu of the industrial user. If the POTW performed the sampling and analysis in lieu of the industrial user, the POTW will perform the repeat sampling and analysis unless it notifies the industrial user of the violation and requires the industrial user to perform the repeat sampling and analysis.

(i)—*Notification of the discharge of hazardous waste.*

(1)—Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under subsection (e), above. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of subsections (a), (c) and (d), above.

(2)—Dischargers are exempt from the requirements of subsection (j)(1) of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazard wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or any quantity of acute hazardous waste as specified in 40 CFR 261.30(d) and 261.33 (e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(3)—In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

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

(j)—Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments to that part, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 and amendments to that part do not contain sampling or analytical techniques for the pollutant in question, ~~sampling and analyses must be performed in accordance with procedures~~ or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the director or other parties approved by the EPA.

~~(k)—Sample collection.~~

(k) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that are representative of conditions occurring during the reporting period.

(1)—Except as indicated in ~~subsections~~ subsections (k)(2), and (k)(3) below, the industrial user must collect wastewater samples using 24-hour flow-proportional composite collection techniques at the specified or permitted discharge point. In the event flow-proportional sampling is infeasible, unless the director ~~may authorize the use of~~ approves time proportional sampling. Where time-proportional composite sampling or grab sampling is authorized by the director, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory; total residual chlorine, pH, and temperature samples may not be composited under any circumstances. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the director, as appropriate. In addition, grab samples may be required to show compliance with instantaneous ~~discharge~~ limits.

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

(3) For sampling required in support of baseline monitoring and 90-day compliance reports required in subsections 55-144(a) and (c) of this article and in 40 CFR 403.12(b) and (d), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the director may authorize a lower minimum. For the reports required by subsection 55-144(c) and in 40 CFR 403.12(e) and (h), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(l)—*Determination of noncompliance.* The director may use a grab sample(s) to determine noncompliance with pretreatment standards.

(m)—*Timing.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern.

(n)—*Record keeping.* Industrial users shall retain, and make available for inspection and copying, for a period of at least three (3) years all records and information required by this article ~~for a period of at least three (3) years,~~ any additional records of information obtained pursuant to monitoring activities undertaken by the industrial user independent of such requirements, and documentation associated with BMPs. This period shall be automatically extended for the duration of any litigation concerning compliance with this article, or where the industrial user has been specifically notified of a longer retention period by the director.

(Ord. No. 21666, § 1, 6-1-1993; Ord. No. 25377, § 9, 7-22-2003)

Sec. 55-145. - Compliance monitoring.

(a)—*Inspection and sampling.* Authorized representatives of the city, state, and federal governments have the right to enter the facilities of any industrial user during hours of plant operation or during times in which discharge is made to the POTW's collection system to ascertain whether the purpose of this article, and any permit or order issued hereunder is being met and whether the industrial user is complying with all requirements thereof. Minimally, the city shall inspect on an annual basis the premises of each significant industrial user and shall take at least one (1) sample from each significant industrial user each year. and may collect additional samples as needed. Industrial users shall allow the director or the director's representatives 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 an industrial user has security measures in force which require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the city, state, and federal agencies will be permitted to enter without delay, for the purposes of performing their specific responsibilities.

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

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

(4)—Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or

verbal request of the director and shall not be replaced. The costs of clearing such access shall be born by the industrial user.

(5)—Unreasonable delays in allowing city personnel access to the industrial user's premises shall be a violation of this article.—

(6)—Hours of operation of the plant and times during which the plant is making discharge to the POTW's collection system shall be deemed reasonable hours for entry of city inspectors for the purposes of this section.

(b)—*Search warrants.* Under Article 18.05, Texas Code of Criminal Procedure, if the director has been refused access to a building, structure or property or any part thereof, and if the director has demonstrated (1) probable cause to believe that there may be a violation of this article and (2) that there is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this article, or any permit or order issued under this article, to protect the overall public health safety and welfare of the community, then upon application by the city attorney, through the code enforcement official, the municipal court judge of the city shall issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the director in the company of a uniformed police officer of the city. Hours during the user's plant operation or during user's discharge to the POTW's collection system shall be presumed reasonable hours of access. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

(c)—*Confidential information.*— Information and data on an industrial 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 industrial user specifically requests, and is able to demonstrate to the satisfaction of the director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. When requested and demonstrated by the industrial 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/PDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Any request for confidentiality must be clearly asserted in writing at the time the report is submitted. 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.

(d)—*Publication of industrial users in significant noncompliance.*— (SNC). The city shall publish annually, in compliance with EPA regulations and federal and state permits, in the largest daily newspaper published in the municipality whereof general circulation that provides meaningful public notice within the jurisdictions served by the POTW is located, a list of the industrial users which, during the previous twelve (12) months or other periods as specified by federal and state law, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

(1)—Chronic violations of wastewater discharge limits defined here as those in which sixty-six (66) per cent percent or more of wastewater measurements taken for the same pollutant parameter

taken during a six-month period exceed ~~the daily maximum limit or average limit for the same pollutant parameter~~ (by any ~~amount; magnitude~~) a numeric pretreatment standard or requirement, including instantaneous limits;

(2)—Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) ~~per cent~~percent 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~~numeric pretreatment standard or requirement including instantaneous limits multiplied by the applicable criteria (one and four-tenths (1.4) for BOD, TSS, COD, fats, oils and grease, and one and two-tenths (1.2) for all other pollutants except pH);

(3)—Any other discharge violation of a pretreatment standard or requirement (daily maximum, long-term average, instantaneous maximum limit, or narrative standard) 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 ninety (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 thirty (30) days after the due date, any required reports, including baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7)—Failure to accurately report noncompliance;—

(8)—Failure to provide a plan for correction and prevention within ~~thirty (30)~~forty-five (45) days after notice of and direction for submission to the city of a remedial action plan, as described in section 55-146(a).

(9)—Any other violation(s), which may include a violation of BMPs, which the city determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 21666, § 1, 6-1-1993; Ord. No. 25377, § 10, 7-22-2003)

Sec. 55-146. - Enforcement.

(a)—*Notification of violation; administrative remedies.* Whenever the director finds that any user has violated or is violating this article, a wastewater discharge permit or directive issued hereunder, or any other pretreatment requirement, the director or his agent may serve upon said user a written notice of violation and direction for remedial action plan. Within thirty (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 director. The director may prescribe in the

notice of violation and direction for remedial action plan, the minimal compliance actions and responses required of the violator. 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 and directive for remedial action plan. 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 and directive for remedial action plan.

(b)—*Meeting prior to enforcement action; director's discretion.* The director, at the director's discretion, may direct any user which causes or contributes to violation(s) of this article, wastewater discharge permits, or directives issued hereunder, or any other pretreatment standard or requirement, to appear before the director to show why a 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 why this 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 ten (10) days prior to the meeting. Such notice may be served on any authorized representative of the user. Whether or not the user appears as directed, immediate enforcement action may be pursued following the hearing date. Such meeting shall not be a required prerequisite for taking any other action against the user.

(c)—*Discontinuances of sewer and water service.* When the director finds that a user has violated or continues to violate the article, wastewater discharge permit or fails to timely respond to a directive for a remedial action plan issued hereunder, or any other pretreatment standard or requirement, he may issue a directive to the user responsible for the discharge directing that the user come into compliance within twenty-four (24) hours. If the user does not come into compliance within twenty-four (24) hours, sewer service and water service may be discontinued at the director's discretion. Compliance directives may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance directive may not extend the deadline for compliance established for a federal or state pretreatment standard or requirement, nor does a compliance directive release the user of liability for any violation, including any continuing violation. Issuance of a compliance directive shall not be a required prerequisite to taking any other action against the user.

(d)—*Emergency suspensions.*

(1)—The director may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order 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 director 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.

a.—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 director may take such steps as deemed necessary, including immediate severance of the sewer and water connections to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director 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 set forth in subsection (e) are initiated against the user.

b.—A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the director, prior to the date of any pre-enforcement meeting or termination meeting under subsection (b) or subsection (e) respectively.

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

(e)—*Termination of discharge.*

(1)—In addition to those provisions in ~~subsection~~section 55-143(l) of this article, any user that violates the following conditions of this article, wastewater discharge permits, or directives issued hereunder, is subject to discharge termination.

a.—~~Violation of wastewater discharge permit conditions.—~~

b.—~~Failure to accurately report the wastewater constituents and characteristics of its discharge.—~~

c.—~~Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.—~~

d.—~~Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling. Reasonable access is access requested by the city anytime during operation of the facility or at anytime that discharge is taking place.~~

e.—~~Violation of the pretreatment standards in section 55-141 of this article.~~

(2)—Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show under subsection (b) of this article why the proposed action should not be taken, subject to the director's authority to immediately suspend discharge under subsection (d).

(f)—*Injunctive relief; judicial remedies.*— Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this article, wastewater discharge permits or directives issued hereunder, or any other pretreatment requirement, the director, through the city's attorney, may petition the state court authorized under the ~~V.T.C.A., Texas~~ Local Government Code ~~§~~section 54.012, as amended or succeeded by other statute, for the issuance of a temporary restraining order, temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, directives, or other requirement imposed by this article on activities of the user. Such other action as appropriate for legal and/or equitable relief may also be sought by the city. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

(g)—*Civil penalties.*

(1)—Any user which has violated or continues to violate this article, any directive or wastewater discharge permit hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty allowed under state law, but not less than one thousand dollars

(\$1,000.00) per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(2)—The city may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city, including but not limited to recovery of fines and penalties incurred by the city resulting from user violations prompting POTW permit violations.

(3)—To aid the court in determining the amount of civil liability, the director may request the court 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 prerequisite for taking any other action against a user.—

(h)—*Criminal prosecution.*

(1)—Any user that willfully or negligently violates any provision of this article, any directives or wastewater discharge permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than two thousand dollars (\$2,000.00) nor less than one thousand dollars (\$1,000.00) per violation per day.

(2)—Any user that willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a fine of at least two thousand dollars (\$2,000.00). This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(3)—Any user that knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this article, wastewater discharge permit or order, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than two thousand dollars (\$2,000.00) nor less than one thousand dollars (\$1,000.00) per violation per day.

(4)—In the event of a second conviction, a user shall be punished by a fine of not less than two thousand dollars (\$2,000.00) per violation per day.

(i)—*Remedies nonexclusive.* The provisions in ~~subsection~~ section 55-145(d) through ~~subsection~~ section 55-146(k) are not exclusive remedies. The city reserves the right to take any, all, or any combination of these actions against a noncompliant 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 (1) enforcement action against any noncompliant user. These actions may be taken concurrently.

(j)—*Performance bonds; supplemental enforcement action.* The director may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this article, any directives, or a previous wastewater discharge permit issued hereunder, unless such user first files a

satisfactory bond, payable to the city, in a sum not to exceed a value determined by the director to be necessary to achieve consistent compliance. Such bond must be made by a company licensed to do insurance business in the State of Texas and possess at least an "A -" rating in the current A.M. Best Company listings.

(k)—*Liability insurance.* ~~The director over wastewater operations~~ may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this article, any directive, or a previous wastewater discharge permit issued hereunder, 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.

(l) *Compliance order.* When the director finds that a user has violated or continues to violate any provision of this article, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the director may issue an order to the user responsible for the discharge directing that user to come into compliance within a specified time. A compliance order may also be used to establish an agreement with IUs for instances of noncompliance or require a user to develop management practices, spill prevention programs, and meet TCEQ pretreatment program requirements or objectives. The compliance order is in the form of a Notice of Violation and Directive for a Remedial Action Plan and directs the violator to achieve or restore compliance.

(Ord. No. 21666, § 1, 6-1-1993; Ord. No. 25377, § 11, 7-22-2003; Ord. No. 031700, § 3, 3-19-2019)

Sec. 55-147. - Affirmative defenses to discharge violations of federal categorical pretreatment standards and local limits.

(a)—*Act of God.* If a person can establish that an event that would otherwise be a violation of this article, a wastewater permit, a directive issued under this article, or any pretreatment standard or requirement was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of this article, a wastewater permit, a directive issued under this article, or any pretreatment standard or requirement.

(b)—*Affirmative defenses to other general and specific prohibitions.* An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in ~~subsection~~section 55-141(a) of this article if it can prove that it did not know or have reason to know that its discharge, along or in conjunction with discharges from other sources, would cause pass through or interference and that either:

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

(2)—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~~TPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(c)—*Bypass.*

(1)—Definitions.—

a.— *Bypass* means the intentional diversion of wastestreams from any portion of an industrial 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, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the presence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2)—An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsection (c)(3) and subsection (c)(4).

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

b.—a.— An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial 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 director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

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

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

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

3.—c.— The industrial user submitted notices as required under subsection (c)(3) of this section.—

b.—(5) The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three (3) conditions listed in subsection (c)(4)a.

Sec. 55-148. - Fees.

(a) ~~Abnormal wastewater surcharge.~~

(1) ~~Any user generating wastewater which exhibits none of the characteristics of prohibited wastes as described in subsection 55-141(a), but which has an average concentration of biochemical oxygen demand, has an average concentration of chemical oxygen demand, or contains total suspended solids in excess of normal wastewater (as defined in subsection 55-140(c)), may be required to pretreat to meet the requirements of normal wastewater or such other more stringent parameters as the city may determine as necessary and appropriate to the particular treatment plant receiving such abnormal wastewater. Pretreated abnormal wastewater may be accepted by a POTW if all the following requirements are met:~~

a. ~~The wastes will not cause damage to the collection system.~~

b. ~~The wastes will not impair the treatment processes.~~

c. ~~The user pays the applicable surcharge over and above published sewer rates, as provided herein; and~~

d. ~~The waste is amenable to treatment such that when it leaves the treatment plant to be discharged, the waste does not exceed, or cause the total discharge to exceed, the standards set by federal and state agencies having jurisdiction.~~

(2) ~~Prior to imposition of a surcharge, the user shall be notified in writing that his waste discharge is in excess of normal wastewater as established in this article.~~

(3) ~~Surcharges will be adjusted on billings for the month following submission of new data but not more frequently than quarterly, unless authorized by the director.~~

(4) ~~The volume of flow used in computing abnormal wastewater surcharges shall be based upon metered water consumption as shown in the records of meter readings maintained by the city of utilities department. In the event that a person discharging waste into the POTW produces evidence to the city demonstrating that a portion of the total amount of water used for all purposes does not reach the POTW, a separate meter or meters or other approved flow measuring device may be installed at the user's expense, upon his request, to measure only that portion of the total flow being discharged into the POTW. Upon request by the user, credit may be allowed by the city for evaporation, product water exported from the user or other operational consumption through which such water is not discharged to the POTW. If it is impossible to show volume by metering, then recognized industry standards designated by the city shall apply. If a surcharge is assessed by the city, it shall be shown separately on the monthly billing.~~

(5) ~~Any person discharging industrial waste into the POTW who procures any part or all of his water supply from sources other than the city utilities department, all or part of which is discharged into the POTW, shall install and maintain at his expense water meters of the type approved by the city for the purpose of determining the proper volume of flow to be used in computing sewer service charges. Such meters shall be read monthly and tested for accuracy when deemed necessary by the city. Where it can be shown that a portion of the water as measured by the aforesaid meter, or meters, does not enter the POTW of the city, then the user if he so elects, may install additional approved meters at the user's expense in such a manner~~

as to measure the quantity of water actually entering the said POTW system from the premises of such user, and the quantity of water used to determine the wastewater service charge and abnormal wastewater surcharge shall be the quantity of water actually entering the POTW as so determined.

(6)—Computations of each surcharge, as applicable, shall be based on the following:—

$$S = V \times 8.34 \times X \times (\text{COD}-562)$$

$$S = V \times 8.34 \times Y \times (\text{BOD}-250)$$

$$S = V \times 8.34 \times Z \times (\text{TSS}-250)$$

S = Surcharge in dollars for the billing period.

V = Water consumption in millions of gallons during the billing period.

8.34 = Weight of water in pounds per gallon.

X = Unit charge in dollars per pound for COD as established in subdivision (8) of this subsection.

Y = Unit charge in dollars per pound for BOD as established in subdivision (8) of this subsection.

Z = Unit charge in dollars per pound for TSS as established in subdivision (8) of this subsection.

COD = Chemical oxygen demand strength index in parts per million by weight, or mg/l.

BOD = Five-day biochemical oxygen demand strength index in parts per million by weight, or mg/l.

TSS = Total suspended solids strength index in parts per million by weight, or mg/l.

250 = Normal BOD and TSS strength in parts per million by weight, or mg/l.

562 = Normal COD strength in parts per million by weight, or mg/l.

(7)—The city reserves the right to review and approve any waters or industrial waste entering the POTW or proposed to be discharged into the system having an average daily flow greater than ten (10) ~~per cent~~percent of the design flow capacity of the plant which will treat the waste. In the event the city's measurement discloses such flow to be in excess of ten (10) ~~per cent~~percent of said capacity, the city shall be under no obligation to receive such flow in excess of ten (10) ~~per cent~~percent of design capacity and the city's published rates shall not apply to such excess. An owner affected hereby shall be promptly notified of such determination by the city. A special contract, at the city's option, may be made with the user to accommodate such excess flow.

(8)—The values for X, Y, and Z used in subdivision (6) of this subsection to determine the abnormal wastewater surcharge are:—

Value—	Effective _October 1, 2014—
X (unit charge in dollars per pound of COD)—	\$0.0000—

Y (unit charge in dollars per pound of BOD)-	-0.4014-
Z (unit charge in dollars per pound of TSS)-	-0.2882-

(b) ~~—~~*Pretreatment charges and fees.* The city may adopt reasonable charges and fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

- (1) ~~—~~Fees for wastewater discharge permit applications including the cost of processing such applications as set forth in the wastewater fee schedule.
- (2) ~~—~~Fees for monitoring, inspection, and surveillance procedures including the cost of collecting and analyzing an industrial user's discharge, and reviewing monitoring reports submitted by the industrial user.
- (3) ~~—~~Fees for reviewing and responding to accidental discharge procedures and construction.—
- (4) ~~—~~Fees for filing appeals.—
- (5) ~~—~~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 article and are separate from all other fees, fines and penalties chargeable by the city.

(Ord. No. 21666, § 1, 6-1-1993; Ord. No. 21814, § 1(g), 12-14-1993; Ord. No. 23706, § 1, 7-20-1999; Ord. No. 24132, § 1, 7-25-2000; Ord. No. 24531, § 1g, 7-24-2001; Ord. No. 24969, § 8, 7-23-2002; Ord. No. 25377, § 13, 7-22-2003; Ord. No. 25396, § 8, 7-22-2003; Ord. No. 025866, § 7, 7-27-2004; Ord. No. 026368, § 7, 7-26-2005; Ord. No. 026900, § 7, 7-25-2006; Ord. No. 027355, § 7, 7-24-2007; Ord. No. 027781, § 9, 7-22-2008; Ord. No. 028256, § 7, 7-28-2009; Ord. No. 028690, § 3, 7-20-2010; Ord. No. 029917, § 8, 7-30-2013; Ord. No. 030295, § 6, 9-23-2014)

Sec. 55-149. - Miscellaneous provisions.

- (a) ~~—~~*Severability.* If any provision of this article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.
- (b) ~~—~~*Conflicts.* All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this article, are hereby repealed to the extent of the inconsistency or conflict.
- (c) ~~—~~*Effective date.* This article shall be in full force and effect immediately following its passage and approval as provided by law.

(Ord. No. 21666, § 1, 6-1-1993)

That the foregoing ordinance was read for the first time and passed to its second reading on this the ____ day of _____, 2021, by the following vote:

Paulette M. Guajardo _____

John Martinez _____

Roland Barrera _____

Ben Molina _____

Gil Hernandez _____

Mike Pusley _____

Michael Hunter _____

Greg Smith _____

Billy Lerma _____

That the foregoing ordinance was read for the second time and passed finally on this the ____ day of _____ 2021, by the following vote:

Paulette M. Guajardo _____

John Martinez _____

Roland Barrera _____

Ben Molina _____

Gil Hernandez _____

Mike Pusley _____

Michael Hunter _____

Greg Smith _____

Billy Lerma _____

PASSED AND APPROVED on this the ____ day of _____, 2021.

ATTEST:

Rebecca Huerta
City Secretary

Paulette M. Guajardo
Mayor