

TOWN OF WESTLAKE

ORDINANCE NO. 1023

AN ORDINANCE OF THE TOWN OF WESTLAKE, TEXAS, AMENDING CHAPTER 94 TITLED “UTILITIES”, TO ESTABLISH ARTICLE VI. ENTITLED “INDUSTRIAL WASTEWATER” ADOPTING AND ESTABLISHING UNIFORM REQUIREMENTS FOR USERS OF THE PUBLICLY OWNED TREATMENT WORKS FOR THE TOWN OF WESTLAKE AND ENABLING THE TOWN OF WESTLAKE TO COMPLY WITH ALL APPLICABLE STATE AND FEDERAL LAWS, INCLUDING THE CLEAN WATER ACT (33 UNITED STATES CODE § 1251 ET SEQ.) AND THE GENERAL PRETREATMENT REGULATIONS (40 CODE OF FEDERAL REGULATIONS PART 403); PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AUTHORIZING PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Town of Westlake, Texas is a Type A General Law Municipality located in Denton and Tarrant Counties, Texas; created in accordance with the provision of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the Town Council of Westlake, Texas finds that the discharge of industrial wastewater without proper regulations may affect the health, safety and general welfare of the public; and

WHEREAS, the Town Council of Westlake, Texas, deems it necessary to enact an ordinance to govern proper regulations for industrial wastewater within the corporate limits of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WESTLAKE, TEXAS:

SECTION 1: That all matters stated in the preamble are found to be true and correct and are adopted and incorporated herein as if copied in their entirety.

SECTION 2: That the Town of Westlake, Texas hereby amends Chapter 94, “Utilities” to establish and adopt Article VI “Industrial Wastewater”, to govern proper regulations for industrial wastewater, a copy of which is attached hereto as Exhibit “A”.

SECTION 3: That this Ordinance shall be cumulative of all other Town Ordinances and all other provisions of other Ordinances adopted by the Town which are inconsistent with the terms or provisions of this Ordinance are hereby repealed.

SECTION 4: It is hereby declared to be the intention of the Town Council of the Town of Westlake, Texas, that sections, paragraphs, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared legally invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such legal invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance since the same would have been enacted by the Town Council of the Town of Westlake without the incorporation in this Ordinance of any such legally invalid or unconstitutional, phrase, sentence, paragraph or section.

SECTION 5: This ordinance shall take effect immediately from and after its passage as the law in such case provides.

**PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF WESTLAKE
ON THIS 15TH DAY OF JULY 2025.**

Kim Greaves, Mayor

ATTEST:

Dianna Buchanan, Town Secretary

APPROVED AS TO FORM:

Matthew C.G. Boyle, Town Attorney

EXHIBIT A

TOWN OF WESTLAKE, TEXAS

**ORDINANCE 1023
INDUSTRIAL WASTEWATER ORDINANCE**

Ordinance 1023
Approved July 15, 2025

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INDUSTRIAL WASTEWATER ORDINANCE

ORDINANCE NO. 1023

SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works for the Town of Westlake (Town) and enables the Town to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq.*) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- F. To enable the Control Authority to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This ordinance shall apply to all users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

1.2 Administration

Except as otherwise provided herein, the Designated Town Official (DTO) shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the DTO may be delegated by the DTO to other Town personnel.

1.3 Abbreviations

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

- BOD - Biochemical Oxygen Demand
- BMP - Best Management Practice
- BMR - Baseline Monitoring Report
- CFR - Code of Federal Regulations
- CIU - Categorical Industrial User
- COD - Chemical Oxygen Demand
- DCRWS – Trinity River Authority Denton Creek Regional Wastewater System
- EPA - U.S. Environmental Protection Agency
- gpd - gallons per day
- IU - Industrial User
- mg/l - milligrams per liter
- NAICS - North American Industrial Classification System
- NPDES -National Pollutant Discharge Elimination System
- NSCIU - Non-Significant Categorical Industrial User
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classification
- SIU - Significant Industrial User
- SNC - Significant Noncompliance
- TCEQ -Texas Commission on Environmental Quality
- TPDES - Texas Pollutant Discharge Elimination System
- TRA - Trinity River Authority
- TSS - Total Suspended Solids
- TTO - Total Toxic Organics
- U.S.C. - United States Code

1.4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

- A. Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.
- B. Approval Authority. The Executive Director of the Texas Commission on Environmental Quality (TCEQ) where the state has been delegated NPDES permit authority and has an approved pretreatment program.
- C. Authorized Representative of the User.
 - (1) If the user is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, or operating 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 individual 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 user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 - (3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (4) The individuals described in paragraphs 1 through 3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Town.
- D. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).
- E. Best Management Practices or BMPs. Means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B [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.

- F. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- G. Categorical Industrial User (CIU). An Industrial User subject to a categorical Pretreatment Standard or Categorical Standard.
- H. Town. The Town of Westlake or the Town Council of Westlake, Contracting Party of the Trinity River Authority's Denton Creek Regional Wastewater System.
- I. Composite Sample. A sample that is collected over time, formed either by continuous sampling or by mixing discrete samples. The sample may be composited either as a time composite sample: composed of discrete sample aliquots collected at constant time intervals providing a sample irrespective of stream flow; or as a flow proportional composite sample: collected either as a constant sample volume at time intervals proportional to flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant time interval between the aliquots.
- J. Control Authority. Trinity River Authority of Texas as holder of the TPDES permit.
- K. Daily Maximum Limit. 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.
- L. Designated Town Official [DTO]. The Director of Public Works of the Town of Westlake who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.
- M. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.
- N. Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- O. Grab Sample. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- P. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.
- Q. Extrajurisdictional user. A User the Town has determined requires a permit to discharge, other than a local government, which is located outside the jurisdiction of the Town, and which discharges or plans to discharge to the POTW.
- R. Instantaneous Maximum Allowable Discharge Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- S. Interference. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the Control Authority's TPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of

the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); 40 CFR 503 sludge regulations; any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act and 30 TAC 312; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

- T. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- U. Monthly Average. The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.
- V. North American Industry Classification System (NAICS). Is a system used by the Federal Government for collecting and organizing industry-related statistics. The NAICS codes are updated every five years to stay current with industry developments.
- W. NPDES (National Pollutant Discharge Elimination System). National Pollutant Discharge Elimination System permit program of the Environmental Protection Agency, and/or the permit program of the state agency delegated to act on EPA’s behalf with an approved pretreatment program (e.g. TPDES or Texas Pollutant Discharge Elimination System).
- X. New Source.
 - (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
 - (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) 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 onsite construction program
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) 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.
- Y. Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- Z. Normal Wastewater. Wastewater which the average concentration of suspended solids and five-day BOD does not exceed 250 mg/l each.
- AA. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Control Authority's TPDES permit, including an increase in the magnitude or duration of a violation.
- BB. Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- CC. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
- DD. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- EE. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- FF. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- GG. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- HH. Process Wastewater. Water that comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, waste product, or wastewater, and/or as defined in a National Pretreatment Standard.
- II. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.
- JJ. Publicly Owned Treatment Works or POTW. A "treatment works," as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the Town and/or the Control Authority. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.
- KK. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

LL. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

MM. Shall is mandatory; May is permissive.

NN. Significant Industrial User.

(1) SIUs

- (a) A user subject to categorical pretreatment standards; or
- (b) A user that:
 - (i) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - (ii) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (iii) Is designated as such by the Town on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (c) Upon a finding that a user meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Town may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

(2) NSCIUs

- (a) The Town may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User (NSCIU) rather than a Significant Industrial User (SIU) on a finding of any of the three criteria below:
 - (i) The Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard);
 - (ii) The Industrial User is required by a categorical Pretreatment Standard to not discharge categorical wastewater unless the Town has determined there is no potential for the Industrial User to discharge the prohibited categorical wastewater;
 - (iii) The Industrial User is subject to numeric categorical Pretreatment Standard(s) and does not discharge categorical wastewater unless the Town has determined there is no potential for the Industrial User to discharge categorical wastewater;
- (b) The following conditions must be met for an Industrial User classified as a NSCIU:
 - (i) The Industrial User, prior to Town's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
 - (ii) The Industrial User annually submits the certification statement required in Section 4.6.C

[see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and

(iii) The Industrial User never discharges any untreated concentrated wastewater.

- OO. Slug Load or Slug Discharge. Any discharge of a non-routine, episodic nature, including but not limited to accidental spill or a non-customary batch discharge. , which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.
- PP. Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.
- QQ. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- RR. Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- SS. Total Toxic Organics. The sum of the masses or concentration of the toxic organic compounds listed in 40 CFR 122 Appendix D, Table II, excluding pesticides, found in industrial users' discharge at a concentration greater than 0.01 mg/L. With Categorical industries, TTOs will be sampled for as stipulated in the particular category or those parameters reasonably suspected to be present, at the discretion of the DTO, where not stipulated.
- TT. User or Industrial User (IU). A source of indirect discharge.
- UU. Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- VV. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

SECTION 2 - GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

- A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater having corrosive properties capable of causing damage or injury to structures, equipment and/or personnel of the POTW, as per the specific prohibition in the applicable local limits in Section 2.4.
 - (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, blockage, or damage to the POTW.
 - (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
 - (5) Wastewater having a temperature greater than 150°F (65°C), 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 104°F (40°C);
 - (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference and/or pass through; and in amounts specified in section 2.4 of this Ordinance.
 - (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - (8) Trucked or hauled pollutants, except at discharge points designated by the DTO and the Control Authority in accordance with Section 3.4 of this ordinance;
 - (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
 - (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the applicable TPDES permit;
 - (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
 - (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, and unpolluted wastewater, unless specifically authorized by the DTO;
 - (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

- (14) Medical wastes, except as specifically authorized by the DTO, that do not cause or contribute to Pass Through and/or Interference.
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- (17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than that specified in the applicable local limits in Section 2.4;
- (18) A discharge of water, normal domestic wastewater, or industrial waste that which in quantity of flow exceeds, for a duration of longer than fifteen minutes, more than four times the average twenty four hour flow during normal operations of the industry;
- (19) Insecticides and herbicides in concentrations that are not amenable to treatment;
- (20) Garbage that is not properly shredded to such an extent that all particles will be carried freely under the flow conditions normally prevailing in wastewater mains, with no particle having greater than one-half (1/2") inch cross-sectional dimension;
- (21) Wastewater or industrial waste generated or produced outside the Town, unless approval in writing from the DTO has been given to the person discharging the waste; or,
- (22) Without the approval of the DTO, a substance or pollutant other than industrial waste, normal domestic wastewater, septic tank waste or chemical toilet waste that is of a toxic or hazardous nature, regardless of whether or not it is amenable to treatment, including but not limited to bulk or packaged chemical products.

C. Processing and Storage. Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

2.2 National Categorical Pretreatment Standards

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

- A. Where a categorical pretreatment standard is expressed in terms of either the mass or the concentration of a pollutant in wastewater, the DTO may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c)(1)
- B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the DTO shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- C. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- D. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

2.3 Reserved

2.4 Local Limits

- A. The following pollutant limits are established to protect against pass through and interference and apply at the point where the wastewater is discharged to the POTW. No person shall discharge or cause or permit to be discharged, wastewater containing in excess of the following instantaneous or daily maximum allowable discharge limits into the POTW:

(1) Toxic Pollutants specified in the following table:

Toxic Pollutant	TRA DCRWS Instantaneous Maximum Allowable Discharge Limit (mg/L)
Cadmium	0.047
Chromium	10.0
Copper	3.51
Cyanide	1.0
Lead	0.22
Mercury	0.005
Nickel	2.98
Zinc	2.99
Oil and Grease	100
pH	5.5 to 11.0 Standard Units

All concentrations for metallic substances are for "total" metal unless indicated otherwise. The DTO may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

2.5 Town's Right of Revision

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

2.6 Dilution

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

2.7 Plant Loading

No industry shall discharge wastewater containing a BOD or TSS loading that causes the Town's prorata share of the total BOD or TSS loading to the POTW System to exceed the Town's prorata share of the total flow to the POTW System. (Example: If the Town contributes 25% of the total wastewater flow to the System, the Town's cumulative BOD or TSS loading to the System, as measured at the Town's points of entry to the System, shall not exceed 25% of the total BOD or TSS loading to the System.)

Any industry with a wastewater strength that will cause the Town's cumulative wastewater loading, at the Town's points of entry, to exceed the Town's prorata share of the total wastewater loading based upon flow, shall be required to install pretreatment facilities to reduce its wastewater strength to an acceptable level.

SECTION 3 - PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 2.1 of this ordinance within the time limitations specified by EPA, the State, the Control Authority, or the DTO, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the DTO for review, and shall be acceptable to the DTO before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Town under the provisions of this ordinance.

3.2 Additional Pretreatment Measures

- A. Whenever deemed necessary, the DTO may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and require such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
- B. The DTO may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- C. Grease, oil, and sand interceptors shall be provided when, in the opinion of the DTO, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the DTO and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.
- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter, or other control device as deemed necessary by the DTO.
- E. The DTO may develop Best Management Practices (BMP) and require Users to implement such BMP's if necessary to protect the POTW. Such BMP's would be supplemental and not used as a replacement for compliance with Local Limits listed in Section 2.4 and Prohibited Discharge Standards in Section 2.1.

3.3 Accidental Discharge/Slug Control Plans

The DTO shall evaluate whether each permitted significant industrial user needs an accidental discharge/slug control plan or other action to control Slug Discharges no later than (1) one year of the SIU determination. The DTO may require any user to develop, submit for approval, and implement such a plan. All the activities associated with Slug Control evaluation and results are to be kept in the Industrial User file. An accidental discharge/slug control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the DTO and Control Authority of any accidental or slug discharge, as required by Section 6.6 of this ordinance; and
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

3.4 Hauled Wastewater

- A. Septage waste may be introduced into the POTW only at locations designated by the DTO and Control Authority, and at such times as are established by the DTO and Control Authority. Such waste shall not violate Section 2 of this ordinance or any other requirements established by the Town. The DTO and/or Control Authority may require septic tank waste haulers to obtain wastewater discharge permits.
- B. Septage waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of generator, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

SECTION 4 - WASTEWATER DISCHARGE PERMIT APPLICATION

4.1 Wastewater Analysis

When requested by the DTO, a user must submit information on the nature and characteristics of its wastewater by the deadline stipulated. The DTO is authorized to prepare a form for this purpose and may periodically require users to update this information.

4.2 Wastewater Discharge Permit Requirement

- A. No significant industrial user or nonsignificant categorical industrial user (NSCIU) shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the DTO, who may disallow any or all discharges until a wastewater discharge permit is issued, except that a significant industrial user or a NSCIU that has filed a timely application pursuant to Section 4.3 of this ordinance may continue to discharge for the time period specified therein.
- B. The DTO may require other users to submit a completed permit application or survey form, including monitoring data, and to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance. To determine the status of a user in relation to this ordinance, users may be required to perform sampling as specified by the DTO.
- C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 09 through 12 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements with any other requirements of Federal, State, and local law.

4.3 Wastewater Discharge Permitting: Existing Connections

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, apply to the DTO for a wastewater discharge permit in accordance with Section 4.5 of this ordinance, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the DTO. If, in the DTO's judgment, the passing of the Ordinance does not significantly affect the Industrial User's current permit, then the existing permit will continue through to the expiration date.

4.4 Wastewater Discharge Permitting: New Connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 4.5 of this ordinance, must be filed prior to the date upon which any discharge will begin or recommence.

4.5 Wastewater Discharge Permit Application Contents

All users required to obtain a wastewater discharge permit must submit a permit application. The DTO may require all users to submit as part of an application the following information:

- A. All information required by Section 6.1(B) of this ordinance;
- B. 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;
- C. Number and type of employees, hours of operation, and proposed or actual hours of operation;
- D. Each product produced by type, amount, process or processes, and rate of production;
- E. Type and amount of raw materials processed (average and maximum per day);
- F. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- G. Time and duration of discharges; and
- H. Any other information as may be deemed necessary by DTO to evaluate the wastewater discharge permit application.

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

4.6 Application Signatories and Certification

- A. All wastewater discharge permit applications and user reports as identified in 40 CFR §403.12(1), must be signed by an authorized representative of the user, as defined in section 1.4(C) of the ordinance, and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the DTO prior to or together with any reports to be signed by an Authorized Representative.
- C. A facility determined to be a Non-Significant Categorical Industrial User (NSCIU) by the DTO pursuant to 1.4 NN (2) must annually submit the signed certification statement signed in accordance with the signatory requirements in 1.4C. This certification must accompany an alternative report required by the DTO.

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR ____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____
[facility name] met the definition of a Non-Significant Categorical Industrial User as described in 1.4 NN (2); [Note: See 40 CFR 403.3(v)(2)]

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

4.7 Wastewater Discharge Permit Decisions

The DTO will evaluate the data furnished by the user and may require additional information. Within a reasonable time from receipt of a complete wastewater discharge permit application, the DTO will determine whether or not to issue a wastewater discharge permit. The DTO may deny any application for a wastewater discharge permit.

SECTION 5 - WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

5.1 Wastewater Discharge Permit Duration

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the DTO. Each wastewater discharge permit will indicate a specific date upon which it will expire.

5.2 Wastewater Discharge Permit Contents

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

A. Wastewater discharge permits must contain:

- (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the Town in accordance with Section 5.5 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Effluent limits including Best Management Practices based on applicable pretreatment standards;
- (4) Self monitoring, sampling, reporting, notification, and record-keeping requirements including BMPs. 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; and
- (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
- (6) Requirements to control Slug Discharge, if determined by the DTO to be necessary.

B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (7) A statement that compliance with the 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; and
- (8) Other conditions as deemed appropriate by the DTO to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

5.3 Reserved.

5.4 Wastewater Discharge Permit Modification

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

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to POTW, POTW personnel, or the receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- H. To correct typographical or other errors in the wastewater discharge permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator.

5.5 Wastewater Discharge Permit Transfer

- A. Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives a minimum of sixty (60) days advance notice to the DTO and the DTO approves the wastewater discharge permit transfer.
- B. The notice to the DTO must include a written certification by the new owner or operator which:

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

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

5.6 Wastewater Discharge Permit Revocation

The DTO may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the DTO of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the DTO of changed conditions pursuant to Section 6.5 of this ordinance;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the DTO timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- 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 business ownership of a permitted facility; or
- M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

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

5.7 Wastewater Discharge Permit Reissuance

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.5 of this ordinance, prior to the expiration of the user's existing wastewater discharge permit.

5.8 Regulation of Waste Received from Other Jurisdictions

- A. A municipality which contributes wastewater to the POTW, shall enter into an interlocal agreement with the Town prior to contributing such wastewater.
- B. Prior to the Town entering into an interlocal agreement as provided in subsection A, the City may request the following information from the contributing municipality:
 - (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
 - (2) An inventory of all users located within the contributing municipality that are discharging to the POTW; and
 - (3) Such other information as the Town may deem necessary.

5.9 Extrajurisdictional users

- A. An extrajurisdictional user shall apply for a permit in accordance with this ordinance at least ninety (90) days prior to discharging to the POTW
- B. This section does not apply to extrajurisdictional users in jurisdictions which have an agreement with the Town pursuant to section 5.8.
- C. A wastewater discharge permit issued to an extrajurisdictional user shall be in the form of a contract, and must include, at a minimum, the components found in 40 CFR 403.8(f)(1)(iii) and shall require the approval of the Town's council. An extrajurisdictional user shall agree to all the terms of this ordinance and the terms of its wastewater discharging contract in accordance with the procedures set forth in section 5.2 of this Ordinance prior to discharging into the POTW.

SECTION 6 - REPORTING REQUIREMENTS

6.1 Baseline Monitoring Reports

- A. 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 categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the DTO a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that will become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to [the DTO] a report which contains the information listed in paragraph B, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- B. Users described above shall submit the information set forth below.
 - (1) Identifying Information. The name and address of the facility, including the name of the operator and owner.

- (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
- (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications and/or North American Industry Classifications (NAICS) of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
- (4) Flow Measurement. Information showing the measured or estimated average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
- (5) Measurement of Pollutants.
 - (a) The categorical pretreatment standards applicable to each regulated process (and any new categorically regulated processes for Existing Sources.)
 - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the DTO, of regulated pollutants in the discharge from each regulated process.
 - (c) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - (d) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.10 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the DTO or the applicable Standards to determine compliance with the Standard.
 - (e) If discharge flow conditions are representative of daily operations, the User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this section. The DTO may require additional representative sampling to be conducted.
 - (f) Representative samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40CFR 403.6(e) to evaluate compliance with Pretreatment Standards.
 - (g) The DTO may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
 - (h) The baseline report shall indicate the time, date and place of sampling and method of analysis, and shall certify that such sampling and analysis is representative of normal work cycle and expected pollutant discharges to the POTW.
 - (i) Sampling must be performed in accordance with procedures set out in Section 6.11 of this ordinance.
- (6) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

- (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 6.2 of this ordinance.
- (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 4.6 of this ordinance.

6.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.1(B)(7) of this ordinance:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (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);
- B. No increment referred to above shall exceed nine (9) months;
- C. The user shall submit a progress report to the DTO 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, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- D. In no event shall more than nine (9) months elapse between such progress reports to the DTO.

6.3 Reports 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 user subject to such pretreatment standards and requirements shall submit to the DTO a report containing the information described in Section 6.1(B)(4-6) of this ordinance. For 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 user's long-term production rate. In cases where the Categorical Pretreatment Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the applicable Categorical Pretreatment Standard necessary to determine the compliance status of the User. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4.6 of this ordinance. All sampling will be done in conformance with Section 6.11 of the ordinance.

6.4 Periodic Compliance Reports

- A. All significant industrial users shall, at a frequency determined by the DTO but in no case less than twice per year, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Categorical Pretreatment Standard or the DTO requires compliance

with a BMP or pollution prevention alternative, the User shall submit documentation as required by the DTO or the applicable Categorical Pretreatment Standard necessary to determine the compliance status of the User. All periodic compliance reports must be signed and certified in accordance with Section 4.6 of this ordinance.

- B. All Non-significant Categorical Industrial Users (NSCIU) shall submit a report annually in the month specified by the DTO. The report shall be completed according to the Town's current reporting requirements, including the submittal of the applicable certification statement found in Section 4.6 of this ordinance.
- C. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- D. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the DTO, using the procedures prescribed in Section 6.10 and 6.11 of this ordinance, the results of this monitoring shall be included in the report.

6.5 Reports of Changed Conditions

Each user must notify the DTO of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater before the change is made.

- A. The DTO may require the 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 4.5 of this ordinance.
- B. The DTO may issue a wastewater discharge permit under Section 4.7 of this ordinance or modify an existing wastewater discharge permit under Section 5.4 of this ordinance in response to changed conditions or anticipated changed conditions.
- C. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent 20% or greater, and the discharge of any previously unreported pollutants that are determined to be of concern.

6.6 Reports of Potential Problems

- A. 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, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Town and the Control Authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- B. Within five (5) days following such discharge, the user shall, unless waived by the DTO, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, 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 pursuant to this ordinance.
- C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A, above. Employers shall

ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

- D. Significant Industrial Users are required to notify the DTO immediately of any changes at its facility affecting the potential for a Slug Discharge

6.7 Reports from Unpermitted Users

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

6.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the DTO within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the DTO within thirty (30) days after becoming aware of the violation. The user is not required to resample if the DTO monitors at the user's facility at least once a month, or if the DTO samples between the user's initial sampling and when the user receives the results of this sampling, or if the DTO has performed the sampling and analysis in lieu of the user.

6.9 Notification of the Discharge of Hazardous Waste

- A. Any 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 user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the 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 and 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 conditions must be submitted under Section 6.5 of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Sections 6.1, 6.3, and 6.4 of this ordinance.
- B. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous 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 of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- C. 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 user must notify [the DTO], the POTW, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

- D. In the case of any notification made under this section, the 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.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

6.10 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 thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question sampling and analyses shall be performed by using validated analytical methods or any applicable sampling and analytical procedures, including procedures suggested by the DTO and/or Control Authority EPA, TCEQ, or other parties approved by EPA .

6.11 Sample Collection

- A. Except as indicated in Section B and C below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the DTO. Where time-proportional composite sampling or grab sampling is authorized by the Town, 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 in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Town, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.
- B. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 6.1 and 6.3 [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 DTO may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

6.12 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 United States Postal Service, the date of receipt of the report shall govern.

6.13 Record Keeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established in this ordinance.. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Town, or where the user has been specifically notified of a longer retention period by the DTO.

SECTION 7 - COMPLIANCE MONITORING

7.1 Right of Entry: Inspection and Sampling

The DTO and/or the Control Authority, State and Federal representatives, or their designated representative shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow inspecting or sampling person 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.

- A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Town, Control Authority, State and Federal representatives, will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The DTO an/or Control Authority shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations. **All sampling and analysis performed by the DTO and/or Control Authority to monitor compliance shall be at the expense of the industrial user.**
- C. **The DTO** and/or Control Authority may require the 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 user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated, at a minimum, annually to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of **[the DTO]** and/or Control Authority and shall not be replaced. The costs of clearing such access shall be born by the user.
- E. Unreasonable delays in allowing the inspecting or sampling person access to the user's premises shall be a violation of this ordinance.
- F. In accordance with 40 CFR 403, the Town shall inspect and monitor each Significant Industrial User a minimum of once per year. If the Town elects to perform compliance monitoring for the Significant Industrial User then the Town will monitor the industry a minimum of semi annually.
- G. Town shall inspect each NSCIU a minimum of once per year. If the Town elects to perform compliance monitoring for the NSCIU then the Town will monitor the industry a minimum of one time each permit.


7.2 Search Warrants

If the DTO and/or Control Authority has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the DTO and/or Control Authority may seek issuance of a search warrant from the an appropriate court.

SECTION 8 - CONFIDENTIAL INFORMATION

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

SECTION 9 - PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The DTO shall publish annually, on the Town's website and  a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. Said Users shall pay the cost of publication. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (C), (D), or (H) of this Section) and shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 2;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the DTO determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the DTO's exercise of its emergency authority to halt or prevent such a discharge;

- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s), which may include a violation of Best Management Practices, which the DTO determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 10 - ADMINISTRATIVE ENFORCEMENT REMEDIES

10.1 Notification of Violation

When the DTO finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the DTO may serve upon that user a written Notice of Violation. Within the time frame specified in the 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 DTO. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the DTO to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.2 Consent Order

The DTO may enter into Consent Orders, assurance of compliance, or similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 of the ordinance and shall be judicially enforceable

10.3 Show Cause Hearing

The DTO may order a user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the DTO and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

10.4 Compliance Orders

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

10.5 Cease and Desist Orders

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

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

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

10.6 Reserved

10.7 Emergency Suspensions

The DTO may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The DTO 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 DTO may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The DTO may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the DTO

that the period of endangerment has passed, unless the termination proceedings in Section 10.8 of this ordinance 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 DTO prior to the date of any show cause or termination hearing under Sections 10.3 or 10.8 of this ordinance.

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

10.8 Termination of Discharge

In addition to the provisions in Section 5.6 of this ordinance, any user who violates the following conditions 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;
or
- E. Violation of the pretreatment standards in Section 2 of this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of this ordinance why the proposed action should not be taken. Exercise of this option by the DTO shall not be a bar to, or a prerequisite for, taking any other action against the user.

SECTION 11 - JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief

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

11.2 Civil Penalties

- A. A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Town for a maximum civil penalty as allowed by law per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. The DTO may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Town.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

11.3 Criminal Prosecution

- A. A user who intentionally, knowingly, recklessly, or negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than Two Thousand Dollars (\$2,000.00) per violation, per day, or imprisonment as decided by an appropriate court, or both.
- B. A user who intentionally, knowingly, recklessly, 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 the same penalties described in 11.3.A. of this Ordinance. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- C. A user who 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 ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be subject to the same penalties described in 11.3.A. of this Ordinance.
- D. **CRIMINAL RESPONSIBILITY.** A person is criminally responsible for a violation of this Ordinance if that person intentionally, knowingly, recklessly, or negligently::
 - (1) commits or assists in the commission of a violation, or causes or permits another person to commit a violation; or
 - (2) owns or manages the property or facilities determined to be the cause of the illegal discharge under Section 2.1, 2.2, 2.4, 3.4, or 4.2.

11.4 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The DTO may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town's enforcement response plan. However, the DTO may take other action against any user when the circumstances warrant. Further, the DTO is empowered to take more than one enforcement action against any noncompliant user.

11.5 Applicability of More Stringent Regulations



- A. It is the intent of the Town Council that all federal and state laws be followed by all users and if national pretreatment standards, categorical or otherwise, more stringent than the discharge limits prescribed in this article are promulgated by the United States Environmental Protection Agency for certain industries, the more stringent national pretreatment standards shall be adopted by future ordinance or incorporated as if set forth full in the Ordinance, upon written notice of that promulgation to the affected industrial user. Any violation of the more stringent national pretreatment standards subsequent to that written notice to an industrial user will also be considered a violation of this Ordinance.
- B. Applicability of more stringent discharge limits. An industrial user within the Town who discharges industrial waste ultimately received and treated by another governmental entity pursuant to a wholesale wastewater contract or a reciprocal agreement with the Town is subject to the following additional rules, upon written notice of more stringent discharge limits that apply to the other governmental entity, provided that written notice shall not be required if the Town adopts ordinances incorporating said additional rules or if federal or state law requires that such additional rules be followed :
- (1) If the governmental entity has more stringent discharge limits than those prescribed by this Ordinance, or by a discharge permit issued hereunder, because the United States Environmental Protection Agency requires the more stringent discharge limits as part of the governmental entity's wastewater pretreatment program, the more stringent discharge limits shall prevail.
 - (2) The DTO is authorized to issue a discharge permit to an industrial user affected by Subsection (1), to insure notice of and compliance with the more stringent discharge limits. If the industrial user already has a discharge permit, the DTO may amend the permit to apply and enforce the more stringent discharge limits. An industrial user shall submit to the DTO an expected compliance date and an installation schedule if the more stringent discharge limits necessitate technological or mechanical adjustments to discharge facilities or plant processes.
 - (3) If the DTO receives notice from the governmental entity of a change to the instantaneous maximum allowable discharge limits or to other applicable requirements, the director shall notify the affected significant industrial user in writing of the change in the instantaneous maximum allowable discharge limits and the effective date of the change. The DTO shall amend the permit to include the new discharge limits. If the change results in more stringent instantaneous maximum allowable discharge limits, an industrial user shall be given a reasonable opportunity to comply with the more stringent instantaneous maximum allowable discharge limits.
 - (4) The more stringent discharge limits cease to apply upon termination of the Town's wholesale wastewater contract or reciprocal agreement with the governmental entity, or upon modification or elimination of the limits by the government entity or the United States Environmental Protection Agency. The DTO shall take the appropriate action to notify the affected industrial user of an occurrence under this Subsection (4).
- C. Variances in compliance dates. The DTO may grant a variance in compliance dates to an industry when, in the DTO's opinion, such action is necessary to achieve pretreatment or corrective measures. In no case shall the DTO grant a variance in compliance dates to an industry affected by national categorical pretreatment standards beyond the compliance dates established by the United States Environmental Protection Agency.
- D. Authority to regulate. The Town may establish regulations, not in conflict with this Ordinance other laws, to control the disposal and discharge of industrial waste into the wastewater system and to insure compliance with the Town's pretreatment enforcement program with all applicable pretreatment regulations promulgated by the United States Environmental Protection Agency. The regulations established shall, where applicable, be made part of any discharge permit issued to an industrial user by the DTO.

SECTION 12 – RESERVED

SECTION 13 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.1 Act of God Provision

In an action brought in municipal or state court only:

- A. An event that would otherwise be a violation that is caused solely by an act of God, war, strike, riot, or other catastrophe, as defined in Texas Water Code (TWC) § 7.251, is an affirmative defense to prosecution for a violation of this Ordinance.
- B. In any enforcement proceeding, the user seeking to establish the occurrence of an act of God, war, strike, riot, or other catastrophe shall have the burden of proof.
- C. In the event that a user satisfies the conditions set forth in Subsections A. and B. above, the user shall control production of all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided.

13.2 Bypass

- A. For the purposes of this section:
 - (1) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.
- C. Bypass notification
 - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the DTO, at least ten (10) days before the date of the bypass, if possible.
 - (2) A user shall submit oral notice to the DTO of an unanticipated bypass that exceeds applicable pretreatment standards 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 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 DTO may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- D. Bypass
 - (1) Bypass is prohibited, and the DTO may take an enforcement action against a user for a bypass, unless

- (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The user submitted notices as required under paragraph (C) of this section.
- (2) The DTO may approve an anticipated bypass, after considering its adverse effects, if the DTO determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

SECTION 14 - WASTEWATER TREATMENT RATES

[RESERVED]

SECTION 15 - MISCELLANEOUS PROVISIONS

15.1 Pretreatment Charges and Fees

- A. The Town may adopt reasonable fees for reimbursement of costs of setting up and operating the Town's Pretreatment Program which may include:
- (1) Fees for wastewater discharge permit applications including the cost of processing such applications;
 - (2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
 - (3) Fees for reviewing and responding to accidental discharge procedures and construction;
 - (4) Fees for filing appeals; and
 - (5) Recovery of administrative and legal costs associated with enforcement activity taken by the DTO to address industrial user noncompliance.
 - (6) Fees for treating abnormal strength wastes
 - (7) Fees incurred from an upset, bypass or unauthorized discharge; and
 - (8) Other fees as the Town may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the Town.
- B. Surcharge
- (1) Industrial users shall be charged for the treatment of abnormal strength wastes, as set out in the Town's Schedule of Fees.
 - (2) Water or wastes having:

- (a) A five day biochemical oxygen demand greater than two hundred fifty (250) parts per million (ppm) by weight, or
 - (b) Containing more than two hundred fifty (250) parts per million by weight of total suspended solids shall not be allowed to be discharged into the POTW, unless the Town Manager or appointee has reviewed the water or wastes, and determined that considering all factors, including the concentration of wastes, the type of wastes, the current limits of the POTW, and all other relevant factors, that the above water or wastes, as set out in number one and two of this subsection may be allowed.
- (3) Such discharge shall be subject to a surcharge as shown on the Town's Schedule of Fees.
 - (4) In no case shall a discharge be accepted that will prevent the POTW from meeting its TPDES limits.
 - (5) The surcharge will be assessed according to the following formula each month using the most current pollutant concentration data and the current months' wastewater flow:

$$\text{Surcharge} = \frac{Q}{1,000,000} \times [a(\text{BOD} - x) + b(\text{TSS} - y)][8.34]$$

Where:

Q = flow in gallons
 8.34 = weight in pounds of one gallon of water
 x = normal limits of BOD in domestic wastewater expressed in milligrams per liter
 y = normal limits of TSS in domestic wastewater expressed in milligrams per liter
 a = unit cost of treatment per pound of BOD
 b = unit cost of treatment per pound of TSS
 BOD = measured amount of BOD, in mg/l
 TSS = measured amount of TSS, in mg/l

A surcharge is an additional charge by the POTW for the increased cost of handling discharge of unusual strength and character and shall not serve as a variance to the requirements of this ordinance. Exercise of this provision shall not be a bar to, or a prerequisite for, taking any other action against the user.

15.2 Severability

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

SECTION 16 - EFFECTIVE DATE

This Ordinance shall be in full force and effective from and after ten (10) days from the date of approval by the State.