

ORDINANCE NO. 16 - 8

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF HARLINGEN, TEXAS; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE CITY OF HARLINGEN:

Section 1. The Code entitled "Code of Ordinances, City of Harlingen, Texas," published by Municipal Code Corporation, consisting of chapters 1 through 111, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before July 1, 2015, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not to exceed \$500.00. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 5. Additions or amendments to the Code when passed in such form as to indicate an intention to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after July 1, 2015 that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 7: That this ordinance adopting the and enacting the new code for the City of Harlingen shall take effect after the second and final reading in accordance with the provisions of the laws of the City of Harlingen.

FINALLY ENACTED this 20th day of January, 2016, at a regular meeting of the Elective Commission of the City of Harlingen, Cameron County, Texas, at which a quorum was present and which was held in accordance with TEXAS OVERNMENT CODE, TITLE 5, SUBTITLE A, CHAPTER 551.

CITY OF HARLINGEN, TEXAS

BY:



Chris Boswell, Mayor

ATTEST:


Amanda E. Elizondo, City Secretary

DIVISION 4. - INDUSTRIAL WASTE

Subdivision I. - In General

Sec. 48-255. - Penalties.

(a) *Civil penalties.*

- (1) Any industrial user who has violated or continues to violate this division, or any order or permit issued hereunder, shall be liable to the control authority for a civil penalty up to \$1,000.00, plus actual damages incurred by the POTW per violation, per day, for as long as the violation continues. In addition to the above-described penalty and damages, the control authority may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.
- (2) The control authority or its legal counsel shall petition the court to impose, assess, and recover such sums. In determining amounts of liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.
- (3) The control authority shall calculate penalties to include the economic benefit gained in accordance with the EPA Guidance Manual for POTWs to calculate the economic benefit of noncompliance and/or similar documents provided by the TNRCC.

(b) *Criminal prosecution.*

- (1) *Violations generally.* Any industrial user who violates any provision of this division, or any orders or permits issued hereunder, shall, upon conviction, be guilty of a misdemeanor.
- (2) *Falsifying.*
 - a. Any industrial user who makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this division, or wastewater permit, or who falsified, tampers with, or renders inaccurate any monitoring device or method required under this division shall, upon conviction, be guilty of a misdemeanor.
 - b. Any industrial user that introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
 - c. Any user that 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 division, wastewater discharge permit or order, or who falsifies, tampers with or renders inaccurate any monitoring device or method required under this division shall be punished by a fine as outlined in this subsection (b)(2) of this section.
- (3) *Search warrants.* Failure to allow access to a building, structure, or property, or any part thereof, when POTW personnel is able to demonstrate probable cause to believe that there may be a violation of this division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the POTW designed to verify compliance with this division or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the control authority may seek issuance of a search warrant from the municipal magistrate of the city or the county judge of appropriate jurisdiction.

(Code 1997, § 52.999; Ord. No. 02-49, 5-15-2002)

Sec. 48-256. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abnormal sewage means any industrial waste having a TSS or BOD content in excess of that found in normal domestic wastewater and which is otherwise acceptable for discharge into a sanitary sewer under the terms of this division.

Abnormal sewage surcharge means the charge levied against any person or business for services rendered during treatment of abnormal sewage. This charge shall be in addition to the usual monthly charge for sewage service.

Act or the act means the Federal Water Pollution Control Act, also known as the Clean Water Act ("CWA"), as amended (33 USC 1251 et seq.).

Approval authority means the executive director of the Texas Natural Resource Conservation Commission (TNRCC), or other duly authorized official of said agency.

Authorized representative of industrial user means:

- (1) A responsible corporate officer if the industrial user is a corporation. For the purpose of this division, a responsible corporate officer means:
 - a. President, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship, respectively.
- (3) The administrator, chairperson, director, or principal executive responsible for operations if the industrial user is a municipal, state or federal facility.
- (4) A duly authorized representative of the individual designated above if:
 - a. The authorization is made in writing by the individual described in subsection (1), (2) or (3) of this definition;
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility for environmental matters for the company;
 - c. The written authorization is submitted to the control authority.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter specified by procedure in 40 CFR 136, and results expressed in terms of concentration (milligrams per liter).

Categorical industrial user means any existing or new industrial user subject to categorical pretreatment standards.

Categorical standards means national categorical pretreatment standards or pretreatment standards.

Chemical oxygen demand means the measure of the oxygen consuming capacity of inorganic and organic matter present in the water or wastewater expressed in mg/l as determined by the amount of oxidant consumed from a chemical reflux in 40 CFR 136. Such term does not, however, differentiate

between stable and unstable organic matter, and therefore does not necessarily correlate with biochemical oxygen demand.

City of Harlingen Waterworks System means the POTW operated by the control authority.

Composite sample (also referred to as flow proportional composite sample) means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

Control authority means the utility board of trustees of the city waterworks system, or its duly authorized representative.

CWA. See Act.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the State of Texas.

Discharge.

- (1) In its verb form, the term "discharge" means to deposit, conduct, drain, emit, throw, run, allow to seep or otherwise release or dispose; or to allow, permit, or suffer any of these acts or omissions.
- (2) In its noun form, the term "discharge" means the product of any of these acts.

Disposal means the discharge, deposit, injection, dumping, spilling, leaking or placing of liquid or solid, industrial or hazardous waste into or on land, water, or the POTW.

Domestic holding tank waste means any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks, and/or vacuum pump tank trucks, generated from a domestic source.

Environmental protection agency or EPA means the U.S. Environmental Protection Agency.

Executive director means the executive director of the Texas Natural Resource Conservation Commission (TNRCC).

Garbage means animal and vegetable wastes and/or residue from preparation, cooking and dispensing of food, and from the handling, processing, storage and sale of food products and produce.

General manager means the general manager of the Harlingen Waterworks System, agent of the utility board of trustees.

Generator means a person who causes, creates, generates, or otherwise produces waste.

Grab sample means a sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes as required in 40 CFR 403, Appendix E.

Grease means fatty acids, soaps, fats, waxes, oils, and any other material extracted by solvent from acidified samples and not volatilized during evaporation of the solvent as specified in standard methods.

Hazardous waste means any liquid, semi-liquid or solid waste (or combination of wastes), which, because of its quantity, concentration, physical or chemical characteristics, is identified as a hazardous waste as defined by the Texas Solid Waste Disposal Act, Texas Health and Safety Code ch. 361, or the administrator, U.S. Environmental Protection Agency (EPA) pursuant to the Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, or as defined in 40 CFR 261.

Indirect discharge means the discharge or the introduction of pollutants from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act (33 USC 1317), into the POTW (including holding tank waste discharge into the system).

Industrial holding tank waste means any waste from holding tanks such as vessels, septic tanks, and/or vacuum pump tank trucks, generated from an industrial user.

Industrial user or user means a source of indirect discharge.

Industrial waste means waste resulting from any process of industry, manufacturing, trade, or business, or any mixture of the waste with water or normal wastewater, or any waste which is distinct from normal domestic wastewater.

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

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

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

Liquid waste means all waste (and wastewater) removed from traps and tanks, including, but not limited to, grease trap waste, sand and grit trap waste, and septage.

Liquid waste generator means a person who causes, creates, generates, or otherwise produces liquid waste.

Liquid waste transporter means a person who operates a vehicle for the purpose of transporting liquid waste.

National category pretreatment standard or pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 USC 1347) which applies to a specific category of industrial users.

National pollutant discharge elimination system or NPDES permit means a permit issued pursuant to Section 402 of the Act (33 USC 1342).

New source means:

- (1) Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - a. The building, structure, facility or installation is constructed at a site at which no other source is located;
 - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source, if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)b or c of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

- (3) Construction that has commenced if the owner or operator has:
- a. Begun, or caused to begin as part of a continuous onsite construction program:
 1. Any replacement, assembly, or installation of facilities or equipment; or
 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the replacement, assembly, or installation of new 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 definition.

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

Normal domestic wastewater (sewage) means wastewater discharge which has a concentration of TSS or BOD not in excess of the normal strength sewage concentration as specified in the schedule of fees, and which is otherwise acceptable into a sanitary sewer under the terms of this division.

Overload means the imposition of organic or hydraulic load on a treatment facility in excess of its engineered design capacity.

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

pH means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Pollutant means a substance that alters the physical, thermal, chemical, radiological, or biological quality or properties of water; or that contaminates water to the extent that the water is rendered harmful to humans, animal life, vegetation, property, or to public health, safety, or welfare; or that impairs the usefulness of public enjoyment of the water for any lawful purpose, including, but not limited to, dredged soil, 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).

Pollution means the manmade or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

POTW treatment plant means that portion of the POTW designed to provide treatment to wastewater.

Pretreatment coordinator means an employee of the Harlingen Waterworks System designated by the general manager to coordinate the pretreatment program.

Pretreatment or *treatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction, elimination or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR 403.6(d) as defined in 40 CFR 403.3(q).

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

Pretreatment standards or *standards* means prohibitive discharge standards, categorical standards, and local limits.

Publicly owned treatment works (POTW) means a treatment works as defined by Section 212 of the Act (33 USC 1292) which is owned by the city waterworks system. This definition includes any sewer, pipes and other conveyances connected to the POTW treatment plant as defined in 40 CFR 403.3(o), but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purpose of this division, POTW shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by permit, regulation, policy, or agreement with the city, users of the city's POTW.

Septage means wastes removed from a septic tank.

Significant industrial user.

- (1) Except as provided in subsection (2) of this definition, the term "significant industrial user" means:
 - a. All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 Chapter I, Subchapter N; and
 - b. Any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).
- (2) Upon finding that an industrial user meeting the criteria in subdivision (1)b of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the control authority (as defined in 40 CFR 403.12 (a)) may, at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

Significant noncategorical industrial user means a significant industrial user not subject to national categorical pretreatment standards.

Slug load means any discharge at a flow rate, or concentration which could cause a violation of general and specific prohibited discharge standards in sections 48-278 and 48-279, or any discharge of a nonroutine, episode nature, including, but not limited to, an accidental spill, or a noncustomary batch discharge.

Standard industrial classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, and any amendments thereto.

Storm sewer means a public sewer which carries storm and surface waters and drainage and into which domestic wastewater or industrial wastes are not to be discharged.

Stormwater means stormwater runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration (other than infiltration contaminated by seepage from sanitary sewers or by other discharges), and drainage related to storm events or snow melt.

Superintendent means the person designated by the control authority to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this division, or his duly authorized representative.

Texas Pollutant Discharge Elimination System means a permit issued under 30 TAC chapter 305.

Total suspended solids (TSS) means solids, measured in mg/l, that either float on the surface of, or are in suspension in, water, wastewater, or other liquids, and which are largely removable by a laboratory filtration device.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the environmental protection agency under the provision of CWA Section 307(a) or other Acts.

Trap means a device designed to skim, settle, or otherwise remove grease, oil, sand, flammable wastes or other harmful substances from wastewater.

Vehicle means a mobile device in which or by which waste may be transported upon a public street or highway.

User means any person who discharges, causes or permits the contribution of wastewater into the city's POTW.

Waste means rejected, unutilized or superfluous substances in liquid, gaseous, or solid form resulting from domestic, agricultural, commercial or industrial activities.

Wastewater means the liquid and water-carried industrial or domestic waste from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is discharged into or permitted to enter the POTW.

(Code 1997, § 52.003; Ord. No. 02-49, 5-15-2002)

Sec. 48-257. - Purpose and policy.

This division sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the city and is implemented and enforced by the Harlingen Waterworks System (hereinafter termed "control authority") and enables the city to comply with all applicable state and federal laws, including the Clean Water Act, as amended (33 USC 1251 et seq.) and General Pretreatment Regulations (40 CFR 403). The general manager reserves the right and shall have the authority to deny or condition any effluent, be it new or existing users, or increased contributions of pollutants, or changes in the nature of pollutants as specified in 40 CFR 403.8(F)(1)(I), to the POTW where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its TPDES permit. The objectives of this division are:

- (1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge.
- (2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system inadequately treated into receiving waters or the atmosphere, or otherwise be incompatible with the system.
- (3) To improve the opportunity to recycle and reclaim wastewater and sludge from the system.
- (4) To provide for equitable distribution of the cost of the municipal wastewater system between residential users, commercial users and industrial users.
- (5) To enable the POTW to comply with TPDES permit conditions, sludge use and disposal requirements and any other federal or state law.
- (6) To monitor and regulate the generation, transportation, and disposal of industrial and hazardous wastes that could enter the wastewater collection and treatment system.
- (7) The control authority shall endeavor to notify all affected users within 90 days, as promulgated changes are incorporated, but all affected users shall keep themselves informed of all changes to the laws. The division shall apply to residents and businesses of the city and to persons and businesses outside the city who, by permit, regulation, policy, or agreement with the city, or otherwise, are users of the POTW, or who conduct business in the city. Except as otherwise provided herein, the utility board of trustees of the control authority shall administer, implement, and enforce the provisions of this division.

- (8) To protect the health and welfare of the general public and of employees who maintain and operate the POTW.
- (9) To create a permit system to regulate industrial users of the POTW.
- (10) To enforce the provisions of this division through inspections and monitoring of the industrial users.
- (11) To provide penalties for violations of the regulations established herein.
- (12) To ensure quality of sludge to allow its use and disposal in compliance with statutes and regulations.

(Code 1997, § 52.002; Ord. No. 02-49, 5-15-2002)

Secs. 48-258—48-277. - Reserved.

Subdivision II. - Discharge Restrictions

Sec. 48-278. - General discharge prohibitions.

No user shall discharge any wastewater or industrial waste which causes pass through or interference. These general prohibitions apply to all users of the POTW, whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(Code 1997, § 52.015; Ord. No. 02-49, 5-15-2002)

Sec. 48-279. - Specific discharge prohibitions.

(a) In addition, the following substances shall not be introduced into the POTW:

- (1) Any liquids, solids or gases which by reason of their nature or quantity are or may be sufficient (either alone or by interaction with other substances) to create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit using the methods specified in 40 CFR 261.21.
- (2) Solid, liquid or viscous pollutants which may cause obstruction to the flow in the POTW resulting in interference.
- (3) Any wastewater having a pH less than 5.5 or greater than 10.5, or wastewater having any other corrosive property capable of causing injury to structures, equipment, and/or personnel of the POTW.
- (4) Any pollutant that results in the presence of toxic gases, vapors or fumes within the POTW in quantity that may cause acute worker health and safety problems.
- (5) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues or sludge, to be unsuitable for reclamation and reuse, and any substance which would interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria or regulations developed under Section 405 of the Act; or any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act, or state criteria applicable to the sludge management method being used.
- (6) Any wastewater with color that cannot be removed in the POTW treatment process, including, but not limited to, dye wastes and vegetable tanning solutions.

- (7) Any wastewater or substance having a temperature which is higher than 140 degrees Fahrenheit (60 degrees Celsius) which will inhibit biological activity in the collection system resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 104 degrees Fahrenheit (40 degrees Celsius).
 - (8) Any slug volume or any pollutants released at a flow rate and/or pollutant concentration which cause damage or interference to the POTW. These pollutants shall include, but are not limited to, all oxygen demand pollutants such as BOD, COD, etc.
 - (9) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the TNRCC, in compliance with applicable state or federal regulations.
 - (10) Any wastewater which causes a hazard to human life or creates a public nuisance.
 - (11) Any wastewater containing any substance which may solidify or become viscous at temperatures between 55 and 90 degrees Fahrenheit.
 - (12) Any free or emulsified fats, waxes, greases, or oils containing substances which may solidify or become discernable viscous at any temperature between 32 and 150 degrees Fahrenheit.
 - (13) Any stormwater, groundwater, roof runoff, subsurface drainage or drainage from downspouts, yard drains, yard fountains and ponds, or lawn sprays and/or other unpolluted water.
 - (14) Any trucked or hauled pollutants, or domestic or industrial holding tank waste except at discharge points designated at the POTW and unless the pollutants to be discharged are subject to testing by the control authority prior to discharge to ascertain compliance with this subdivision.
 - (15) There shall be no discharge of any petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that may contribute, whether singly or by interaction with other products, to interference or pass through.
 - (16) In accordance with 40 CFR 403.5(b)(7), there shall be no discharge of any pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides, asbestos, spent antifreeze, and any other substances which the control authority, the TNRCC or EPA has notified the user is a fire or explosion hazard to the system, or presents an imminent threat to the health and safety of persons operating the system.
 - (17) Any substance which may cause the POTW effluent or any other product of the POTW, such as residues, sludges, or scums, to be unsuitable for normal landfill disposal, land application, reclamation or reuse, or which may interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Clean Water Act, or with any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, Clean Air Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act, or state criteria applicable to sludge management and/or disposal methods being used.
- (b) The above 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. This subdivision may be amended to regulate specific types and sources of such dischargers in order to minimize or eliminate hazardous waste loadings into the POTW. When the general manager determines that a user is indirectly discharging to the POTW any of the above-mentioned substances in such quantities or concentrations so as to interfere with the operation or performance of the POTW, the general manager shall advise the user of the impact of the indirect discharge on the POTW and impose upon the user a schedule for termination of the discharge causing the interference.

(Code 1997, § 52.016; Ord. No. 02-49, 5-15-2002)

Sec. 48-280. - Specific pollutant limitations; technically based local limits.

- (a) No person and/or user shall discharge or allow discharge to the POTW, wastewater containing pollutant concentrations, in solution or suspension, in excess of the pollutant limits below. Compliance with these limits shall be determined based on the analysis of a grab sample or a combination of grab samples, time composite samples, or flow composite samples. All samples shall be collected and analyzed in a manner consistent with the requirements of 40 CFR 136. No user shall discharge or allow the discharge of wastewater to the POTW having a pH less than 5.5 or greater than 10.5 standards units. All concentrations and/or quality criteria shall apply where the effluent is discharged to the POTW. In the case of noncategorical industrial users, the limits will be applied at the end-of-pipe. Categorical standards will be applied at the end-of-process. In all cases, the users industrial waste discharge permit will designate the point where the limits apply.
- (b) No person shall discharge wastewater containing concentrations in excess of the following:

Parameter	Daily Average mg/l Concentration
Arsenic	0.030
Cadmium	0.030
Chromium (total)	0.120
Copper	0.770
Lead	0.663
Mercury	0.000
Nickel	0.150
Selenium	0.080
Silver	0.210
Zinc	1.210
Phenols	33.50
Cyanide	0.340
Temperature	140 degrees Fahrenheit

- (c) Note that the above-mentioned limits are reflected in units of mg/l, with the exception of pH and temperature. All limits represent the total concentration of substance both suspended and dissolved.

(Code 1997, § 52.017; Ord. No. 02-49, 5-15-2002)

Sec. 48-281. - National Categorical Pretreatment Standards; state requirements.

Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this subdivision for sources in that subcategory, shall immediately supersede the limitations imposed under this subdivision. While the control authority shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12, all users are expected to keep themselves apprised of current local, state and federal laws.

- (1) *Prohibition of dilution.* No user shall ever increase the use of process water, unpolluted water, surface water or stormwater, or in any other way attempt to dilute either a direct or indirect discharge as a partial or complete substitute for adequate treatment to achieve compliance with the specific pollutant limitations contained in the National Categorical Pretreatment Standards, or any other specific pollutant limitations promulgated by the control authority, the TNRCC and incorporated in this subdivision. The control authority may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.
- (2) *Treatment bypasses.* A bypass of the treatment system is prohibited unless all of the following conditions are met:
 - a. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and
 - c. The industrial user properly notified the general manager, as an agent of the utility board of trustees, as follows:
 1. Industrial users must provide immediate notice to the general manager, as an agent of the utility board of trustees, upon discovery of an unanticipated bypass. If necessary, the general manager may require the industrial user to submit a written report explaining the causes, nature, and duration of the bypass, and the steps being taken to prevent this recurrence.
 2. An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation of the treatment system. Industrial users anticipating a bypass must submit written notice to the general manager at least ten days in advance. The general manager, as an agent of the utility board of trustees, may only approve the anticipated bypass if the circumstances satisfy those set forth in subsection (2)c.1 of this section
- (3) *Harlingen Waterworks System's right of revision.* The control authority reserves the right to amend this section at any time to establish more stringent specific pollutant limitations or requirements on indirect discharges to the system if deemed necessary to protect the POTW processes or to correct or prevent an effluent quality problem in treated wastewater and/or resulting sludges.
- (4) *Modification of national categorical pretreatment standards.*

- a. When promulgated, federal categorical pretreatment standards for a particular category, if more stringent than the limitation imposed by this subdivision for users in that category or subcategory, shall immediately supersede the limitations imposed under this subdivision. If no other waste streams are introduced, categorical pretreatment standards shall apply at the end-of-process. In all cases, the user's industrial waste discharge permit will designate the point where the limits shall apply. The POTW shall notify all affected users of the applicable pretreatment requirements.
 - b. The control authority shall follow the procedures for the development and evaluation of its local limits, categorical pretreatment standards using the EPA's Guidance Manual on the Development and Implementation of Local Discharge Limitations under the Pretreatment Program.
 - c. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the control authority may impose equivalent concentrations or mass limits in accordance with 40 CFR 403.6(e). The more stringent national categorical pretreatment standards shall supersede the limitations imposed under section 48-280 for that particular category.
 - d. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the control authority shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e). Fixed alternative methods may be derived by the control authority or by the industrial user with the written concurrence of the control authority. These alternative limits shall be applied at the end-of-pipe. When deriving alternative categorical limits, the control authority or industrial user shall calculate both an alternative daily maximum value using the daily maximum values specified in the appropriate categorical pretreatment standards and an alternative consecutive sampling day average using the monthly average values specified in the appropriate categorical pretreatment standards. The industrial user shall comply with the alternative daily maximum and monthly average limits fixed by the control authority until the control authority modifies the limits or approves an industrial user modification request. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative limits for the regulated pollutant. An industrial user must immediately report any such material or significant change to the control authority. Where appropriate, new alternative categorical limits shall be calculated within 30 days.
 - e. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
 - f. In those situations in which the nondomestic discharger believes it is not subject to the standards, the control authority has developed a procedure for the nondomestic discharger to obtain a category determination. This procedure is outlined in 40 CFR 403, Appendix D.
 - g. The National Categorical Pretreatment Standards found at 40 CFR 405—471, are hereby fully incorporated into this subdivision.
- (5) *State requirements.*
- a. Specific pollutant requirements and limitations which have been or may be enacted by the state on indirect discharges shall immediately supersede and replace the requirements and limitations imposed by this subdivision when the state requirements are more stringent than either the national or control authority standards or requirements.
 - b. The control authority may impose mass limitations in addition to, or in place of, the concentrations based limitations above.

(Code 1997, § 52.018; Ord. No. 02-49, 5-15-2002)

Sec. 48-282. - Excessive discharge.

No user shall ever increase the use of process or non-processed water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment in order to achieve compliance with the standards set forth in this subdivision.

(Code 1997, § 52.019; Ord. No. 02-49, 5-15-2002)

Sec. 48-283. - Slug loadings and accidental discharges.

Each industrial user shall provide necessary wastewater treatment to comply with and achieve compliance with categorical standards, local limits, and established prohibitions. The industrial user shall provide protection from slug loadings and direct or indirect accidental discharge of prohibited materials or other substances regulated by this subdivision. Industrial users will be required to develop slug discharge control plans as required under 40 CFR 403.8(f)(2)(v)(A)—(D). Facilities to prevent slug loadings and accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the control authority before construction of the facility may begin. All existing users shall complete and submit such a plan within 180 days of the effective date of the ordinance from which this subdivision is derived and implement the plan on a schedule as deemed appropriate by the control authority. No user who commences contribution to the POTW after the effective date of the ordinance from which this subdivision is derived shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the control authority. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of this subdivision.

- (1) *Notification by user.* In the case of a slug loading, including any accident spill or noncustomary batch discharge, it is the responsibility of the user to immediately telephone and notify the control authority of the incident. The notification shall include the time of discharge, location of discharge, type of waste, concentration and volume, and corrective actions. In addition, the permittee shall submit to the control authority a detailed written report within five days following an accidental discharge. The report shall specify:
 - a. Description and cause of the upset, slug load or accidental discharge, the cause thereof, and the impact on the permittee's compliance status. The description should also include the time, location of discharge, type, concentration, and volume of waste.
 - b. Duration of noncompliance, including exact dates and times of noncompliance and, if the noncompliance is continuing, the time by which compliance is reasonably expected to occur.
 - c. All steps taken or to be taken to reduce, eliminate, and/or prevent recurrence of such an upset, slug load, accidental discharge, or other conditions of noncompliance.
- (2) *Notice to employees.* 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 dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.
- (3) *Slug discharge control plan.* At least once every two years, the control authority shall evaluate whether each significant industrial user needs a plan to control slug discharges. The control authority may require any user to develop, submit for review, and implement such a plan. When the control authority finds that such a plan is necessary, the industrial user will be required to develop slug discharge control plans as required under 40 CFR 403.8(f)(2)(v)(A)—(D). A plan shall address, at a minimum, the following:
 - a. Description of discharge practices, including nonroutine batch discharge;
 - b. Description of stored chemicals;

- c. Procedures for immediately notifying the control authority of any accidental or slug discharge, as required by subsection (1) of this section, including any discharge that would result in a violation under 40 CFR 403.5(b) with procedure for follow-up written notification within five days; 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 containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(Code 1997, § 52.020; Ord. No. 02-49, 5-15-2002)

Sec. 48-284. - Hazardous wastes.

Unless otherwise permitted by this subdivision, the discharge of hazardous waste into the POTW is strictly prohibited and constitutes a violation of this subdivision.

- (1) Users that generate hazardous wastes shall comply with all regulations of the environmental protection agency, the Texas Natural Resource Conservation Commission, and the Texas Department of Health. Such industrial users shall notify the POTW, the TNRCC, the EPA Regional Waste Management Director, and state hazardous waste authority, in writing, as specified in 40 CFR 261. Such users shall maintain records of the types and quantities of wastes generated, the name of any transporter, and the site of disposal. These records shall be made available for inspection by the control authority at any reasonable time.
- (2) Transporters transporting hazardous wastes must have the applicable Texas Department of Health, or Texas Natural Resource Conservation Commission, permit and use the appropriate manifest system. The control authority shall be allowed to inspect vehicles for proper operations, registration, and manifest.

(Code 1997, § 52.021; Ord. No. 02-49, 5-15-2002)

Secs. 48-285—48-301. - Reserved.

Subdivision III. - Permits

Sec. 48-302. - Wastewater contribution permits.

- (1) The general manager reserves the right and shall have the authority to deny or condition any effluent, be it new or existing users, or increased contributions of pollutants, or changes in the nature of pollutants as specified in 40 CFR 403.8(F)(1)(I), to the POTW where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its TPDES permit.
- (2) Users required to obtain permits.
 - a. All nondomestic users must notify the control authority of the nature and characteristic of their wastewater prior to commencing their discharge for the purpose of determining whether they need a permit. The control authority is authorized to prepare a form for this purpose.
 - b. It shall be unlawful for significant industrial users to discharge wastewater, either directly or indirectly, into the control authority's sanitary sewer system without first obtaining an industrial waste discharge permit from the control authority. Any violation of the terms and conditions of this permit is deemed a violation of this subdivision and will subject the user

to the sanctions set out in subdivision V of this division. This permit shall be in addition to all other required permits.

- c. Liquid waste haulers who operate within the city limits must obtain a permit from the control authority.
- d. The control authority may require that other industrial users obtain industrial user pretreatment permits, as necessary, to carry out the purpose of this subdivision.
- e. Significant industrial users located beyond the city limits must submit a permit application, in accordance with section 48-303(b) of this chapter prior to discharging into the sanitary sewer. Upon review and approval of such a request, the control authority shall enter into a contract with the user. Refer to 40 CFR 403, Appendix H, for the terms and conditions of the agreement.

(Code 1997, § 52.030; Ord. No. 02-49, 5-15-2002)

Sec. 48-303. - Significant industrial user permit requirements.

- (a) *Permit application deadlines.* Unless a permit application has already been submitted six months prior to the effective date of the ordinance from which this subdivision is derived, the following submission deadline requirements shall apply for the permit application in this section:
 - (1) Existing significant industrial users: Within 90 days of a determination as significant industrial user by the control authority, or within 90 days of the effective date of the ordinance from which this subdivision is derived, whichever is later; and
 - (2) Any new source, or sources that become industrial users subsequent to the promulgation of applicable categorical standards, or any new connection that is a significant noncategorical industrial user: At least 90 days prior to commencement of discharge to the control authority.
- (b) *Permit application submission and contents.*
 - (1) All significant industrial users shall complete and file with the control authority an application in the form prescribed by the control authority and accompanied by the fee prescribed by the schedule of fees.
 - (2) In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information, at a minimum, but not limited to:
 - a. Name, address, and location (if different from the address).
 - b. SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1987.
 - c. Wastewater constituents concentration and characteristics, including, but not limited to, those mentioned in subdivision II of this article and any pollutants which are limited by any federal, state or local standards. Sampling and analysis shall be performed in accordance with 40 CFR 136.
 - d. Time and duration of the discharge.
 - e. Average daily and three-minute peak wastewater flow rates, including daily, monthly, and seasonal variations, if any.
 - f. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation.
 - g. Each product produced by type, amount, processor, and rate of production.
 - h. Description of activities, facilities, and plant processes on the premises, including all materials which are or could be discharged.

- i. Type and amount of raw materials processed (average and maximum per day).
 - j. Number and type of employees, and hours of operation, and proposed or actual hours of operation of the pretreatment systems.
 - k. A statement regarding whether or not the pretreatment standards are being met and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards.
 - l. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, then the industrial user shall provide 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 standards. The following conditions shall apply to this schedule:
 - 1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);
 - 2. No increment referred to in subsection (b)(2)l.1 of this section shall exceed nine months, nor shall the minimum total compliance period exceed that of the applicable federal categorical standards. The control authority, however, may issue a shorter schedule as necessary;
 - 3. No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the general manager, agent for the utility board of trustees, including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the general manager.
 - 4. Specific location of existing or proposed monitoring facilities, and any other information as may be deemed by the control authority to be necessary to evaluate the permit applications. The control authority will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the control authority may issue an industrial waste discharge permit subject to terms and conditions provided herein.
- (3) It shall be the permittee's continued duty to provide, when requested by the control authority, information necessary to ensure current information and data required as part of the permit application. Such requests by the control authority may be presented to the permittee in writing, or by a representative of the control authority at the time of an inspection. Failure to provide such information will be considered a violation of this subdivision.
- (c) *Permit fact sheets.* Upon permitting a user, the control authority's pretreatment staff will prepare and file in the users pretreatment file a fact sheet for every user. The fact sheet will be updated at a minimum when the permit is re-issued, and updated any time there is a need to update the information due to changes in the permit or conditions at the users change. A fact sheet for each industrial user will be kept as part of the industrial users file to support the development of permit limits and to document the rationale of permit decisions and discharge limit calculations/determinations. The fact sheet summarizes the basis for decisions made during the permitting process and sets forth the significant factual, legal, methodological, and policy questions considered in preparing the permit. The fact sheet will expedite the process when permits will be reissued or modified, and will be useful to document any relevant changes experienced at the regulated industry such as change in personnel. The current fact sheet form being used by the

control authority is located in 40 CFR 403, Appendix F - Figure #1. Incomplete or inaccurate permit applications will not be processed and will be returned to the user for revision.

(Code 1997, § 52.031; Ord. No. 02-49, 5-15-2002)

Sec. 48-304. - Liquid waste transporter permit requirements.

(a) *Permit application deadlines.*

- (1) Existing liquid waste transporters shall apply within 90 days of the effective date of the ordinance from which this subdivision is derived.
- (2) Any liquid waste transporters desiring to operate within the city limits shall apply for a liquid waste transporter permit prior to operating within the city limits.
- (3) After the effective date of the ordinance from which this subdivision is derived, any liquid waste transporter desiring to discharge into the control authority's POTW shall apply at least 90 days prior to commencement of discharge.
- (4) Hauled wastes are subject to sampling by the control authority. Sampling, analysis and other related costs, such as shipping, shall be the responsibility of the liquid waste transporter.
- (5) The control authority reserves the right to refuse permission to discharge any load.

(b) *Permit application submission.* Any person transporting waste within the city limits shall:

- (1) Submit an application on a form provided by the control authority and provide such information as it may request.
- (2) Submit, for inspection by the control authority each vehicle the applicant proposes to use to transport liquid waste. Each vehicle shall be constructed, equipped and identified in accordance with the following provisions:
 - a. Business name and permit number in three-inch-high or larger letters, prominently displayed on both sides of the vehicle.
 - b. Vehicle shall be clean and odor free.
 - c. Vehicle shall be equipped for safe operation, and comply with regulatory agencies.
 - d. Vehicle shall have a single tank as an integral portion of the vehicle to transport wastes. Portable tanks or other containers temporarily installed in the vehicles are prohibited.
 - e. Piping, valves and connectors shall be permanently attached to the tank and/or vehicle, accessible and easy to clean.
 - f. Tank shall be constructed so that every interior and exterior portion can be easily cleaned.
 - g. Inlets or openings of tank to be constructed so that collected waste will not spill, run, or leak during filling, transfer, or transport.
 - h. Outlet shall be of a design and type suitable for the waste handled and capable of controlling flow or discharge without spillage or spray or flooding of immediate surroundings, while in use.
 - i. Pumps, valves, cylinders, diaphragms, and other appurtenances shall be of a design and type suitable for the type of waste handled, capable of operation without spillage, spray, or leakage, and capable of being easily disassembled for cleaning.
- (3) Submit, with the application, a photocopy of the driver's license of the manager and insurance verification, as required.

(c) *Permit conditions.* Permit conditions shall include, but not be limited to:

- (1) Before the vehicle is operated in the city, the permit holder shall display the vehicle permit number on each side of each vehicle in a color contrasting with the background color in three-inch-high or larger letters.
 - (2) A permit to transport nonhazardous waste issued by the control authority, prohibits the hauling of hazardous waste and the co-mingling of hazardous waste with nonhazardous waste.
 - (3) Co-mingling of grease trap waste and septic tank waste is prohibited.
 - (4) The control authority shall be notified of management changes during the permit period and shall be provided a copy of the new manager's valid driver's license.
 - (5) Transporters shall remove the entire contents of tanks and traps.
 - (6) Disposal of nonhazardous wastes shall not be made to grease traps, grit traps, septic tanks of the sanitary sewer without prior knowledge and written approval by the control authority.
 - (7) Transporters shall immediately notify the control authority of any additional disposal sites used during the permit period.
 - (8) Transporters shall maintain hoses, tanks, valves, pumps, cylinders, diaphragms, pipes, connections, and other appurtenances on a vehicle in good repair and free from leaks.
 - (9) Provide a safety plug, or cap, for each valve of a tank.
 - (10) Cause a vehicle exterior to be clean and the vehicle odor free at the end of each work day.
 - (11) If transporting portable chemical toilet waste, the transporter shall report monthly to the control authority, the total volume of waste transported and all utilized disposal sites for said waste during the month.
 - (12) Portable toilet waste transporters shall introduce sufficient odor eliminating chemicals to the portable toilets and/or loads to prevent discharging waste that could subject the POTW to nuisance complaints, noncompliance with related permits, or will be a nuisance to the surrounding area, and/or employees of the POTW.
- (d) *Manifest system.* A four part manifest system shall be used to document the generation, transportation, and disposal of liquid waste in the city as follows:
- (1) The trip ticket books are purchased by the transporter from the control authority for a fee as established in section 48-344.
 - (2) The transporter shall complete one trip ticket for each location serviced.
 - (3) The first copy of the trip ticket must be signed by the transporter and liquid waste generator at the time of waste removal, and the second copy must be left with the liquid waste generator for files.
 - (4) The first copy of the trip ticket signed by the disposer at the time of disposal, and third copy must be maintained by the disposer.
 - (5) The first and fourth copy of the trip ticket must have signatures of the transporter, liquid waste generator and disposer. The first copy must be returned to the liquid waste generator within ten working days, and the fourth copy must be left at the disposal site.
 - (6) A copy of all trip tickets shall be maintained for a period of three years.

(Code 1997, § 52.032; Ord. No. 02-49, 5-15-2002)

Sec. 48-305. - Permit modifications.

- (a) Permits may be modified by the general manager, agent for the utility board of trustees, upon 30 days' notice to the permittee, for just cause. Any changes or new conditions in the permit shall

include a reasonable time schedule for compliance. Reasons for permit modifications may include, but not be limited to, the following:

- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 - (2) Material or substantial alterations or additions to the discharger's operation which were not covered in the effective permit;
 - (3) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - (4) Information indicating that the permitted discharge poses threat to the POTW's collection and treatment systems, POTW personnel, or the receiving waters;
 - (5) Violation of any terms or conditions of this permit;
 - (6) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting;
 - (7) A revision of or a grant of variance from such categorical standards pursuant to 40 CFR 403.13;
 - (8) To correct typographical or other errors in the permit;
 - (9) To reflect transfer of the facility ownership and/or operation to a new owner/operator; or
 - (10) At request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.
- (b) The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit conditions.

(Code 1997, § 52.033; Ord. No. 02-49, 5-15-2002)

Sec. 48-306. - General permit conditions.

All permits shall be expressly subject to all provisions of this subdivision and all other applicable regulations, user charges and fees established by the control authority. Permits shall contain, at a minimum, the following conditions:

- (1) Statement of duration.
- (2) Statement of nontransferability, unless approved as required by section 48-307(b).
- (3) Effluent limits based on applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, and state and local law.
- (4) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, and state and local laws.
- (5) Statement of applicable civil and criminal penalties for violation or pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the compliance date beyond applicable federal deadlines.
- (6) Other conditions as deemed appropriate by the general manager to ensure compliance with this subdivision, and state and federal laws, rules, and regulations.

(Code 1997, § 52.034; Ord. No. 02-49, 5-15-2002)

Sec. 48-307. - Permit issuance.

- (a) *Permit duration.* Permits shall be issued for a specified time period not to exceed five years.
- (b) *Permit transfer.* Permits are issued to a specific user for a specific operation, or discharge at a specific location. A permit shall not be reassigned, transferred, or sold to a new owner, operator, different premises, or a new or changed operation without prior approval of the general manager, obtained under the following procedure:
 - (1) Permittees wishing to transfer their permits must give at least 30 days' advance notice to the general manager;
 - (2) The notice must include a written certification by the new owner which:
 - a. States that the new owner has no immediate intent to change the facility's operation and processes;
 - b. Identifies specific dates on which the transfer is to occur; and
 - c. Acknowledges full responsibility for complying with the existing permit;
 - (3) The general manager, agent for the utility board of trustees, within ten working days of receiving the permit transfer request, will respond to the parties in writing. In the event the general manager denies the request, the new owner/operator must submit a permit application in accordance with section 48-303(b).

(Code 1997, § 52.035; Ord. No. 02-49, 5-15-2002)

Sec. 48-308. - Permit appeals.

- (a) Any person who is directly affected by an action of the control authority in the issuance or denial of a permit under this subdivision, may appeal the control authority's action to the waterworks system's utility board of trustees. The appellant must file a written notice of appeal with the general manager of the waterworks system within 15 calendar days of the action which is being appealed. The written notice must contain the name, mailing address, street address and phone number of the appellant, and must also contain a reasonable detailed statement regarding the action complained of, who took the action, what the appellant contends was wrong with the action complained, and what relief is being sought.
- (b) Within 15 calendar days of receipt of the written notice, the control authority's utility board of trustees must notify the appellant of the date of a hearing to hear the appeal. The control authority's utility board of trustees may itself conduct the hearing and make recommendation to the full utility board of trustees.
- (c) The hearing shall be conducted according to the procedure in section 48-383, unless otherwise agreed in writing by the appellant and the utility board of trustees. The decision of the utility board of trustees shall be made and given to the appellant in writing within ten calendar days of the hearing. The appellant has the right to appeal the decision of the utility board of trustees to the city commission by filing a written notice with the city manager within 15 calendar days of receipt of the utility board of trustees' decision. The decision of the utility board of trustees will be reversed only upon a vote of at least four in favor of reversal, as required by the City Charter.

(Code 1997, § 52.036; Ord. No. 02-49, 5-15-2002)

Sec. 48-309. - Permit reissuance.

The user shall apply for permit reissuance by submitting a complete permit application a minimum of 90 days prior to the expiration of the user's existing permit.

(Code 1997, § 52.037; Ord. No. 02-49, 5-15-2002)

Sec. 48-310. - Continuation of expired permits.

An expired permit will continue to be effective and enforceable until the permit is reissued if:

- (1) The industrial user has submitted a complete permit application at least 90 days prior to the expiration date of the user's existing permit; and
- (2) The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the industrial user.

(Code 1997, § 52.038; Ord. No. 02-49, 5-15-2002)

Sec. 48-311. - Reporting requirements.

(a) *Reporting requirements for categorical industrial users.*

- (1) *Baseline monitoring report.* Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under 40 CFR 403.6 (a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the control authority a report which contains the information listed in subsections (a)(1)a through g of this section. Where reports containing this information already have been submitted to the executive director in compliance with the requirement of 40 CFR 128.140(b) (1977), the industrial user will not be required to submit this information again. At least 90 days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the control authority a report which contains the information listed in subsections (a)(1)a through g of this section. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in subsections (a)(1)d and e of this section.
 - a. *Identifying information.* The user shall submit the name and address of the facility, including the name of the operator and owners.
 - b. *Permits.* The user shall submit a list of any environmental control permits held by or for the facility.
 - c. *Description of operations.* The user shall submit a brief description of the nature, average rate of production, and standard industrial classification of the operations carried out by such industrial user. This description should include a schematic process diagram which indicates point of discharge to the POTW from the regulated processes.
 - d. *Flow measurement.* The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
 1. Regulated process streams; and
 2. Other streams as necessary to allow use of the combined waste stream formula of 40 CFR 403.6 (e). The control authority may allow for verifiable estimates of these flows where certified by cost or feasibility considerations.
 - e. *Measurement of pollutants.*
 1. The user shall identify the pretreatment standards applicable to each regulated process.

2. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or control authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be reported. The sample shall be representative of daily operations.
 3. A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, where feasible. The control authority may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.
 4. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this section.
 5. Samples shall 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 waste stream formula of 40 CFR 403.6(e) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e), this adjusted limit along with supporting data shall be submitted to the control authority.
 6. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR 136, and amendments thereto. Where 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, or where the executive director determines that the 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures suggested by the POTW or other parties, approved by the executive director.
 7. The control authority 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.
 8. The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- f. *Certification.* A statement, reviewed by an authorized representative of the industrial user and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether pretreatment standards additional operation and maintenance (O&M) and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.
- g. *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M shall be used. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

1. Where the industrial user's categorical pretreatment standard has been modified by a removal allowance (40 CFR 403.7), the combined waste stream formula (40 CFR 403.6(e)), and/or a fundamentally different factor variance (40 CFR 403.13) at the time the user submits the report required by this section, the information required by subsections (a)(1)f and g of this section shall pertain to the modified limits.
 2. If the categorical pretreatment standard is modified by a removal allowance (40 CFR 403.7), the combined waste stream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) after the user submits the baseline monitoring report required by subsection (a)(1) of this section, any necessary amendments to the information requested by subsections (a)(1)f and g of this section shall be submitted by the user to the control authority within 60 days after the modified limits is approved.
- h. *Conditions.* The following conditions shall apply to the schedule in subsection (a)(1)g of this section:
1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable categorical pretreatment standards (e.g., hiring an engineer, completing preliminary plans, executing contract for major components, commencing construction, completing construction, etc.).
 2. No increment referred to in subsection (a)(1)h.1 of this section shall exceed nine months.
 3. No later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the control authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the control authority.
- (2) *Categorical standard deadline compliance report.* Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the general manager a report containing the information described in subsections (a)(1)d through f of this section.
- (3) *Periodic compliance reports.* Any industrial user subject to categorical pretreatment standards, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the general manager during the months of June and December, unless required more frequently in the pretreatment standard or by the control authority or the approval authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the report period exceeded the average daily flow reported in subsection (a)(1)d of this section. At the discretion of the general manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the general manager may alter the months during which the above reports are to be submitted.
- (b) *Reporting requirements for significant noncategorical industrial users.*
- (1) *Initial compliance report.* Within 90 days following the commencement of the introduction of wastewater into the POTW, any significant noncategorical industrial user that is a new connection shall submit to the control authority a report containing the information described in subsections (a)(1)d through f of this section.

- (2) *Periodic compliance report.* Any noncategorical significant industrial user, in the case of a new connection, after 90 days following the commencement of the introduction of wastewater into the POTW, or in the case of an existing connection, after 90 days of a determination as a significant industrial user by the control authority, or the effective date of the ordinance from which this subdivision is derived, whichever is later, shall submit to the control authority, at least once every six months, on dates specified by the control authority, a description of the nature, concentration, and flow of the pollutants required by the control authority.
- (c) *Reporting requirements for all significant industrial users.*
- (1) *Monitoring and analysis requirements.*
- a. The reports required in this section shall contain the results of the sampling and analysis of the discharge, including the flow and the nature of concentration, or production or mass where requested by the control authority, of pollutants contained therein which are limited by the applicable federal, state, or local standards.
 - b. If sampling performed by an industrial user indicates a violation, the user shall notify the control authority within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation.
 - c. If the results of the resampling in subsection (c)(1)b of this section indicate continued noncompliance, the user shall submit a schedule for achieving compliance with the applicable pretreatment standard. The compliance schedule shall meet the requirements stipulated in subsection (a)(1)g of this section.
 - d. If an industrial user, subject to the reporting requirement in this section, monitors any pollutant more frequently than required by the control authority, using the procedures prescribed in subsection (c)(1)f of this section, the result of this monitoring shall be included in the report.
 - e. The general manager, agent for the utility boards of trustees, may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitation are appropriate. In such cases, the reports required in subsection (a)(1) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including flow and the nature and concentration, or production and mass where requested by the general manager, of pollutants contained therein which are limited by the applicable pretreatment standards.
 - f. All analyses shall be performed in accordance with procedures established by the U.S.E.P.A. Administrator pursuant to Section 304 (h) of the Act and contained in 40 CFR 136, and amendments thereto, or with any other test procedures approved by the U.S.E.P.A. Administrator. Sampling shall be performed in accordance with the techniques approved by the U.S.E.P.A. Administrator. Where 40 CFR 136 does not include sampling or analytical techniques for pollutants in question, or where the U.S.E.P.A. Administrator determines that the 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods, or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the U.S.E.P.A. Administrator.
- (2) *Notification of changed discharge.* Each industrial user is required to notify the general manager of any planned changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.
- a. The general manager, as an agent of the utility board of trustees, may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 48-303.

- b. The general manager, as an agent of the utility board of trustees, may issue a wastewater discharge permit under section 48-302, or modify an existing wastewater discharge permit under section 48-305.
 - c. No industrial user shall implement the planned changed conditions until and unless the general manager, as an agent of the utility board of trustees, has responded to the industrial user's notice.
 - d. For purposes of this requirement, flow increases of ten percent or greater, and the discharge of any previously unreported pollutants, shall be deemed significant.
- (3) *Notification of hazardous waste discharges.* Industrial users shall notify the POTW, the TNRCC, the EPA Regional Waste Management Director, and the state hazardous waste authorities, in writing (as specified in 40 CFR 403.12(p)), of any discharge which, if otherwise disposed of, would be hazardous waste under 40 CFR 261.
- (4) *Notification of potential problems, including slug loadings.* All industrial users shall notify the POTW immediately of all discharges that could cause problems, including slug loadings, as defined in section 48-283, by the industrial user, and shall submit a written report within five days of the discovery of the problem discharge as specified in accordance with the specifications of subsection (b) of this section.
- (5) *Signatory requirements.* Any report or application required to be submitted to the control authority by this subdivision shall include the following certification signed by an authorized representative of the industrial user: "I certify under penalty of law that this document and all attachments were prepared under my direction, or supervision, in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for violations."
- (6) *Monitoring facilities.*
- a. The control authority shall require to be provided and operated, at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems.
 - b. The monitoring facilities should normally be situated on the user's premises, but the control authority may, when such a location would be impractical, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.
 - c. Whether constructed on public or private property, the sampling and monitoring facility shall be provided in accordance with the control authority's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the control authority; but in no way shall the lack of a monitoring facility waive or delay any of the user's reporting requirements under this subdivision. Permanent flow measurement, metering and/or totalizing devices for surcharge calculations and/or determination of the mass of pollutants discharged shall be required when deemed appropriate by the control authority, and shall be provided at the user or owners expense. All devices installed by industrial user, to measure water and/or wastewater flow and quality shall be calibrated at a minimum of one time per calendar year to ensure accuracy.
- (7) *Compliance inspection and sampling.*

- a. The control authority shall inspect and sample the facilities of any user to ascertain (independently) whether the purpose of this subdivision is being met and all requirements are complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the control authority, or their representative, ready access at all reasonable times to all or part of the premises for the purposes of inspection, sampling, records examination and/or copying, or in the performance of any of their duties. The control authority, the TNRCC, and U.S.E.P.A. shall have the right to set upon the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that, upon presentation of suitable identification, personnel from the control authority, the TNRCC, and U.S.E.P.A. will be permitted to enter, without a delay, for the purposes of performing their specific responsibilities.
 - b. Search warrants. Failure to allow access to a building, structure, or property, or any part thereof, when POTW personnel is able to demonstrate probable cause to believe that there may be a violation of this subdivision, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the control authority designed to verify compliance with this subdivision or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the control authority may seek issuance of a search warrant from the municipal magistrate of the city or the county judge, or any judge of appropriate jurisdiction.
- (8) *Compliance inspection frequency.*
- a. The control authority shall inspect categorical industrial users at least semiannually. The control authority may, however, inspect its categorical industrial users as frequently as needed during the pretreatment year.
 - b. The control authority shall inspect significant industrial users at least annually.
 - c. The control authority may inspect and sample any industrial user at least annually.
- (9) *Pretreatment.*
- a. Users shall provide, operate, and maintain, at the user's expense, any necessary wastewater treatment as required to comply with this subdivision. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the control authority for review, and shall be acceptable to the control authority before construction of the facility.
 - b. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility, as necessary, to produce an effluent acceptable to the control authority under the provisions of this subdivision.
 - c. Any subsequent changes in the pretreatment facilities, or method of operation, shall be reported to and be acceptable to the control authority prior to the user's initiation of the changes.
- (10) *Additional pretreatment measures.*
- a. Whenever deemed necessary, the control authority may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this subdivision.
 - b. The control authority 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 or traps shall be provided by the user when, in the opinion of the control authority, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such devices shall not be required for residential users. All interception or trap units shall be of type and capacity approved by the control authority and shall be located to be easily accessible for cleaning and inspection.
 - 1. The control authority requires a 90-day minimum cleaning schedule for grease and sand traps. This required cleaning scheduled is, however, only a minimal requirement, the user is responsible for establishing the most adequate cleaning schedule necessary to prevent discharging the prohibited items into the sanitary sewer system and violating city ordinance. Under the sink interceptors shall be cleaned regularly as needed to prevent grease from exiting the interceptors.
 - 2. At the user's expense, such interceptors and traps shall be installed, inspected, and repaired regularly, as needed, and/or as specified in section 48-346, to ensure that interceptor properly performs the function intended.
 - 3. Records related to these devices such as waste transporter manifests and other records necessary for the control authority to verify compliance with this subdivision must be kept at the user's facility (on-site) for a period of three years.
 - 4. The use of enzymes or bacteria in the interceptors or traps, in lieu of cleaning the interceptors or traps, is prohibited and will be considered a violation of this subdivision. The use of any processes designed to treat, chemically alter or affect the contents in the interceptors or traps must be approved by the control authority prior to the use of such processes.
- d. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(11) *Confidential information.*

- a. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspections, shall be available to the public, or other governmental agency, without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the control authority, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.
- b. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets, or secret processes, shall be stamped with the words "confidential business information" on each page containing such information, and shall not be made available for inspection by the public, but shall be made available upon request to governmental agencies for uses related to this subdivision, the Texas Pollutant Discharge Elimination System (TPDES), any governmental environmental protection programs and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. In no case, however, shall wastewater effluent data be claimed or held as confidential information.
- c. Information accepted by the control authority as confidential shall not be released to the general public.
- d. Information released to the public for publication of industrial users in significant noncompliance shall be done in accordance with section 48-388.

(12) *Recordkeeping requirements.*

- a. Any industrial user subject to the reporting requirements established in this subdivision, shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:
 1. The date, exact place, method, and time of sampling, and the names of the persons taking the samples;
 2. The dates analyses were performed;
 3. Who performed the analyses;
 4. The analytical techniques/methods used;
 5. The results of such analyses;
 6. Chain of custody information;
 7. Sample preservation techniques; and
 8. Associated quality assurance/quality control data.
- b. Any industrial user subject to the reporting requirements established in this subdivision shall be required to retain, for a minimum of three years, any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the control authority, the TNRCC and the U.S.E.P.A. This period of retention shall be extended during the course of any resolved litigation regarding the industrial user or when requested by the control authority, the TNRCC, or the U.S.E.P.A.

(13) *Reporting requirements for POTW; annual reports.* The POTW shall provide the approval authority (TNRCC) with a report that briefly describes the POTW's program activities annually and include the elements required under 40 CFR 403.12(i)(1)—(5).

(Code 1997, § 52.039; Ord. No. 02-49, 5-15-2002)

Secs. 48-312—48-340. - Reserved.

Subdivision IV. - Fees and Charges

Sec. 48-341. - Purpose.

It is the purpose of this subdivision to provide for the recovery of the cost from users of the POTW and for the implementation of the program established herein. The applicable charges or fees shall be set forth in the schedule of fees promulgated by the control authority.

(Code 1997, § 52.050; Ord. No. 02-49, 5-15-2002)

Sec. 48-342. - Permit fees.

- (a) *Significant industrial users.* All significant users shall pay a fee. Such fee shall be included with the application for a wastewater discharge permit.
- (b) *Non-significant industrial users.* All non-significant industrial users shall pay a fee. Such fee shall be included with the application for wastewater discharge permit.
- (c) *Liquid waste transporter.* All transporters shall pay a fee. Such fee shall be included with the application for waste transport permit.

(Code 1997, § 52.051; Ord. No. 02-49, 5-15-2002)

Sec. 48-343. - Monitoring, sampling and analytical fees.

- (a) *Significant industrial users.* Significant industrial users may be sampled by the control authority at least annually and will be charged for the laboratory and sampling services rendered.
- (b) *Non-significant industrial users.* Non-significant industrial users may be sampled by the control authority at least annually and be charged for the laboratory and sampling services rendered.
- (c) *Multiple group users.* In a situation which requires an industrial user to be monitored for more than one reason, results from the first sampling purpose may be cross indexed with those for the other purposes so that a minimum of sampling is necessary.
- (d) *Users on compliance schedule.* Any industrial user placed on a compliance schedule will pay for the associated sampling and analytical services as follows:
 - (1) Initial sampling which detected the violation.
 - (2) Sampling, after a violation has been detected, shall be repeated monthly until the results show the discharge to be in compliance.
 - (3) Following an acceptable monthly compliance sampling, quarterly sampling shall ensue until two consecutive quarterly samples are determined to comply with the requirements of this subdivision.
- (e) *Determination of monitoring fees.* Fees may be based on the actual cost to the control authority for chemicals consumed in the testing and labor utilized to accomplish the test, as well as the sampling. The equipment may be based on useful life, capital depreciation, and operation and maintenance cost for any equipment utilized. The control authority may review these fees on an annual basis and make any adjustments necessary to reflect the true cost to the control authority.
- (f) *Liquid waste transporters.* Liquid waste transporters utilizing an approved disposal site within the city shall be charged a monitoring fee to recover equipment and labor costs. This fee shall be reviewed on an annual basis by the control authority and adjusted, as necessary, to reflect the true cost to the control authority.

(Code 1997, § 52.052; Ord. No. 02-49, 5-15-2002)

Sec. 48-344. - Manifest system fees.

Liquid waste transporters may be charged a manifest fee to recover printing and handling costs for trip ticket books. This fee shall be reviewed annually by the control authority and adjusted, as necessary, to reflect the true cost to the control authority.

(Code 1997, § 52.053; Ord. No. 02-49, 5-15-2002)

Sec. 48-345. - Chapter fees.

The control authority may elect to print and bind this subdivision, or sections thereof, and charge a fee for its distribution. The fee shall be based on development and printing costs to the control authority and may be reviewed annually for adjustments to reflect the true cost to the control authority.

(Code 1997, § 52.054; Ord. No. 02-49, 5-15-2002)

Sec. 48-346. - Abnormal sewage surcharge.

- (a) *Computation of surcharges.* Any industrial user discharging sewage which has concentration of total suspended solids or BOD in excess of the normal strength sewage concentration shall be assessed a surcharge. The surcharge shall be calculated by the following formula:

$$[(\text{BOD} - \text{nBOD}) \times \text{A} + (\text{TSS} - \text{nTSS}) \times \text{B}] \times 8.34 \times \text{VOL}$$

Where:

- BOD = BOD strength concentration in mg/l.
- TSS = TSS strength concentration in mg/l.
- nBOD = Normal strength sewage BOD concentration (mg/l).
- nTSS = Normal strength sewage TSS concentration (mg/l).
- A = BOD charge (dollars per pound of excess strength BOD).
- B = TSS charge (dollars per pound of excess TSS).

- (b) *Determination of POTW true cost and normal BOD and TSS concentrations; normal BOD and TSS concentrations.* Values of the unit cost of treatment will be based on true costs to the control authority. These values shall be reviewed annually by the control authority for adjustments, as necessary, to reflect true costs to the control authority as provided in 40 CFR 35. Normal BOD and TSS concentrations will be reviewed from time to time by the control authority to ensure they are representative of domestic strength waste. The applicable charges, costs, and concentrations shall be set forth in the control authority's schedule of fees.
- (c) *Liquid waste transporters.* Liquid waste transporters may be surcharged for discharges qualifying as abnormal sewage and which are disposed of at an approved disposal site within the city. This charge will be based on waste strength as averaged from a representative number of grab samples. This charge shall be reviewed annually by the control authority for adjustments, as necessary, to reflect true costs to the control authority.

(Code 1997, § 52.055; Ord. No. 02-49, 5-15-2002)

Sec. 48-347. - Industrial surcharge for class groups.

- (a) *Generally.* The control authority shall classify commercial and industrial establishments which routinely discharge sewage which has a concentration of TSS or BOD in excess of the normal strength sewage concentration into the following class groups:
- (1) *Eating places.* Eating places include restaurants, bars, lounges, and other establishments which engage in preparation of food and/or beverages which is served directly and/or indirectly to the consumer.
 - (2) *Equipment service facilities.* Equipment service facilities include establishments which perform washing, cleaning, and/or servicing of automobiles, trucks, buses, machinery, and/or mechanical equipment. This class includes public facilities, facilities limited to specific companies, attended and/or coin operated establishments.
 - (3) *Food and kindred products processing.* Food and kindred products processing includes commercial establishments which engage in the preparation of, packaging, processing, and/or distribution of, food, food products, trains and/or produce, other than those included in Class 1.
- (b) *Additional classes established.* The control authority may establish additional classes as deemed necessary to recover costs from other dischargers of abnormal sewage. The control authority shall establish an industrial surcharge rate for each class group, based on the surcharge formula in section 48-346 with waste strength determinations established by averaging grab and/or composite samples taken from representative number of establishments in each group, and shall apply this rate to the water consumption or metered wastewater as determined in section 48-348. The control

authority shall then add the appropriate industrial surcharge to the billing, in addition to the regular sewage rate.

- (c) *Payment of monthly surcharge.* Each establishment shall pay a monthly industrial surcharge based on the class group's industrial surcharge rate. Criteria used to designate each establishment into its class group, and to establish its class group's average and its industrial surcharge rate for the next year, is outlined in section 48-346. Other regulations for food preparation establishments are outlined in section 48-346.
- (d) *Surcharge rates revised.* The control authority may, from time to time, revise class group surcharge rates based on analysis of current samples.

(Code 1997, § 52.056; Ord. No. 02-49, 5-15-2002)

Sec. 48-348. - Determination of flow.

- (a) The volume of flow used in computing surcharges shall be based upon metered water consumption as shown in the records of meter readings maintained by the control authority, or by installing a permanent open channel flow metering device in the establishments discharge line.
- (b) Any user who procures any part or all of his water supply from sources other than the control authority, all or part of which is discharged into the sanitary sewer system, shall install and maintain, at his expense, water meters of the type approved by the control authority for the purpose of determining the proper volume of flow to be used in computing sewer service charges. Such meters shall be read monthly and tested for accuracy when deemed necessary by the control authority.
- (c) In those circumstances where a user desires a credit for metered water being consumed, but not being returned to the sanitary sewer, a volume credit shall be allowed if said user installs an effluent meter and/or meters to measure wastewater flow.
- (d) Said meter shall be installed and maintained at the user's expense, be installed pursuant to plans and specifications approved by the control authority, and be installed in an approved location, and be calibrated annually and a certified calibration statement for said meter shall be provided to the control authority, and have a totalization device. The aforementioned calibration shall be witnessed by a representative of the control authority.
- (e) In those circumstances involving a Class I user who desires a credit for metered water being consumed, but not being returned to the sanitary sewer, and where such user is located in such a manner that effluent meters may not be properly located, the figure of five gallons of wastewater per customer served shall be used. Such users shall submit to the control authority the total number of individuals served within the preceding 12-month period, from which an average monthly wastewater flow shall be determined for the next 12-month period. In those circumstances where a user desires a credit for metered water being consumed, but not being returned to the sanitary sewer, and, further, where none of the preceding divisions are applicable, it shall be the responsibility of the user to provide satisfactory evidence of discharge reduction upon which an accurate credit may be established, and the control authority may establish said discharge upon the presentation of such evidence.
- (f) If the control authority finds that it is not practical to measure the quantity or quality of waste by the aforesaid meters or monitoring devices, it shall determine the quantity or quality of the waste in any manner and/or method it may find practical in order to arrive at the percentage of water entering the sanitary sewage system of the control authority and/or the quality of the sewage to be used to determine the sewer service charge and the surcharge or the industrial surcharge for class groups.

(Code 1997, § 52.057; Ord. No. 02-49, 5-15-2002)

Sec. 48-349. - Appeal of fees and surcharges.

- (a) Any person who is directly affected by an action of the control authority in the assessment, calculation, establishment or determination of a fee or surcharge under this subdivision may appeal the control authority's action to the waterworks system board of trustees. The appellant must file a written notice of appeal with the general manager of the waterworks system, as an agent of the utility board of trustees, within 15 calendar days of the action which is being appealed. The written notice must contain the name, mailing address, street address and phone number of the appellant and must also contain a reasonably detailed statement regarding the action complained of, who took the action, what the appellant contends was wrong with the action, and what relief is being sought.
- (b) Within 15 calendar days of receipt of the written notice, the waterworks system board of trustees must notify the appellant of the date of a hearing to hear the appeal. The waterworks system utility board of trustees may itself conduct the hearing or may designate any three of its members to conduct the hearing and make recommendation to the full utility board of trustees. The hearing shall be conducted according to the procedure in section 48-383, unless otherwise agreed in writing by the appellant and the utility board of trustees. The decision of the utility board of trustees shall be made and given to the appellant in writing within ten calendar days of the hearing. The appellant has the right to appeal the decision of the utility board of trustees to the city commission by filing a written notice with the city manager within 15 calendar days of receipt of the utility board of trustee's decision. The decision of the utility board of trustees will be reversed only upon a vote of at least four in favor of reversal, as required by the City Charter.

(Code 1997, § 52.058; Ord. No. 02-49, 5-15-2002)

Sec. 48-350. - Pretreatment.

- (a) Commercial and industrial users identified in section 48-347 shall provide, operate, and maintain, at the user's expense, any necessary wastewater treatment as required to comply with this subdivision. Detailed plans showing the pretreatment facilities shall be submitted to the control authority for review, and shall be acceptable to the control authority before construction of the facility.
- (b) The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility, as necessary, to produce an effluent acceptable to the control authority under the provisions of this subdivision.
- (c) Any subsequent changes in the pretreatment facilities, or method of operation, shall be reported to and be acceptable to the control authority prior to the user's initiation of the changes.
- (d) Additional pretreatment measures.
 - (1) Whenever deemed necessary, the control authority may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this subdivision.
 - (2) Grease, oil and sand interceptors or traps shall be provided by the user to properly handle wastewater containing grease and oil, or sand; except that such devices shall not be required for residential users. All interception or trap units shall be of type and capacity approved by the control authority and shall be located to be easily accessible for cleaning and inspection.
- (e) Cleaning frequencies.
 - (1) The control authority requires a 90-day minimum cleaning schedule for grease, oil and sand traps. This required cleaning scheduled is, however, only a minimal requirement. The user of the sanitary sewer system is responsible for establishing the most adequate cleaning schedule necessary, to prevent discharging substances prohibited under section 48-279, and/or to ensure that the interceptor or trap properly performs the function intended.

- (2) Under the sink interceptors shall be cleaned regularly as needed to prevent grease from exiting the interceptors and violating city ordinance.
- (3) At the user's expense, such interceptors and traps shall be installed, inspected, and repaired regularly, as needed, and/or as specified in section 48-346, to ensure that interceptor or trap properly performs the function intended.
- (4) Records related to these devices such as waste transporter manifests and other records necessary for the control authority to verify compliance with this subdivision must be kept at the user's facility (on-site) for a period of three years.
- (5) The use of enzymes or bacteria in the interceptors or traps, in lieu of cleaning the interceptors or traps, is prohibited and will be considered a violation of this subdivision. The use of any processes designed to treat, chemically alter or affect the contents in the interceptors or traps must receive written approval by the control authority prior to the use of such processes.

(Code 1997, § 52.059; Ord. No. 02-49, 5-15-2002)

Secs. 48-351—48-373. - Reserved.

Subdivision V. - Enforcement

Sec. 48-374. - Notification of violation.

Whenever the control authority finds that any user has violated or is violating this division, wastewater discharge permit, or any prohibition, limitation or requirements contained herein, the general manager or lab/pretreatment director shall serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the control authority by the user. 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.

(Code 1997, § 52.070; Ord. No. 02-49, 5-15-2002)

Sec. 48-375. - Consent orders.

The general manager, as agent of the utility board of trustees, is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders shall include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to section 48-377. Entering into consent orders shall not be a bar against, or a prerequisite for, taking any other enforcement action against the user.

(Code 1997, § 52.071; Ord. No. 02-49, 5-15-2002)

Sec. 48-376. - Show cause hearing.

The general manager, as an agent of the utility board of trustees, may order any industrial user which causes or contributes to violation of this division, or order, or wastewater permit issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally, or by registered or certified mail (return receipt requested), at least ten days prior to the hearing. Such notice may be served on the authorized

representative of the industrial user, or any principal, executive, general partner, owner, manager, or corporate officer. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued. At any hearing held pursuant to this division, testimony may be taken under oath and may be recorded. The transcript, if so recorded, will be made available to any party of the hearing, and any member of the public, subject to the confidentiality provisions of section 48-311(c)(11), upon payment of the usual charges thereof. A show cause hearing notice shall not be a bar against, or a prerequisite for, taking any other enforcement action against the user.

(Code 1997, § 52.072; Ord. No. 02-49, 5-15-2002)

Sec. 48-377. - Administrative orders.

When the general manager, as agent of the utility board of trustees, finds that an industrial user has violated or continues to violate the division or a permit or order issued hereunder, he may issue an order containing such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including, but not limited to, the installation of pretreatment technology, additional self-monitoring, and management practices. Issuance of an administrative order shall not be a bar against, or a prerequisite for, taking any other enforcement action against the user.

(Code 1997, § 52.073; Ord. No. 02-49, 5-15-2002)

Sec. 48-378. - Cease and desist orders.

- (a) When the general manager, as agent of the utility board of trustees, finds that an industrial user has violated or continues to violate this division or any permit issued hereunder, the general manager, as an agent of the utility board of trustees, may issue an order to cease and desist all such violations and direct the user in noncompliance to:
- (1) Comply forthwith;
 - (2) Comply in accordance with a compliance time schedule set forth in the order; and/or
 - (3) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.
- (b) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other enforcement action against the user.

(Code 1997, § 52.074; Ord. No. 02-49, 5-15-2002)

Sec. 48-379. - Administrative fines.

- (a) Notwithstanding any other section of this division, any user who is found to have violated any provision of this division, or permits or orders issued hereunder, shall be fined in an amount not to exceed \$1,000.00 per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the control authority shall have such other collection remedies as it has to collect other service charges; unpaid charges, fines, and penalties shall constitute a lien against the user's property.
- (b) Users subject to an administrative fine shall be notified of the proposed action and shall be offered, with the notification, an opportunity to show cause under section 48-376 why the proposed action should not be taken. The assessment of an administrative fine shall not be a bar against, or a prerequisite for, taking any other enforcement action against the user.

(Code 1997, § 52.075; Ord. No. 02-49, 5-15-2002)

Sec. 48-380. - Emergency suspensions.

- (a) The general manager, as agent of the utility board of trustees, may suspend the wastewater permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.
- (b) Any user notified, either verbally or in writing, of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the general manager, as agent of the utility board of trustees, shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The cost of severance of the sewer connection and subsequent reconnection shall be borne by the user.

(Code 1997, § 52.076; Ord. No. 02-49, 5-15-2002)

Sec. 48-381. - Termination of permit.

- (a) Any user who violates the following conditions of this division or a wastewater discharge permit or order, or any applicable state or federal law, is subject to permit termination:
 - (1) Failure of a user to accurately report the wastewater constituents and characteristics of his discharge;
 - (2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;
 - (3) Falsifying self-monitoring reports;
 - (4) Tampering with monitoring equipment, the sampling, and/or collected samples;
 - (5) Refusing to allow timely access to all of the user's premises, facilities, records, processes, operations, or any items relevant to this division, the Texas Pollutant Discharge Elimination System, any governmental environmental protection program, and/or the pretreatment program inspector;
 - (6) Failure to meet effluent limitations;
 - (7) Failure to pay fines;
 - (8) Failure to pay sewer charges;
 - (9) Failure to meet compliance schedules;
 - (10) Refusal of access to all of the user's premises, facilities, records, processes, operations, or any items relevant to this division, the Texas Pollutant Discharge Elimination System, any governmental environmental protection program, and/or the pretreatment program for the purpose of inspection or monitoring; or
 - (11) Violation of permit conditions.
- (b) Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under section 48-346 why the proposed action should not be taken.

(Code 1997, § 52.077; Ord. No. 02-49, 5-15-2002)

Sec. 48-382. - Appeal.

- (a) Any user who is the subject of enforcement action under this section may appeal the control authority's action to the waterworks system board of trustees. The appellant must file a written notice of appeal with the general manager of the waterworks within 15 calendar days of the action which is being appealed. The written notice must contain the name, mailing address, street address and phone number of the appellant and must also contain a reasonably detailed statement regarding the action complained of, who took the action, what the appellant contends was wrong with the action, and what relief is being sought.
- (b) Within 15 calendar days of receipt of the written notice, the waterworks system utility board of trustees must notify the appellant of the date of a hearing to hear the appeal. The waterworks system utility board of trustees may itself conduct the hearing or may designate any three of its members to conduct the hearing and make recommendation to the full utility board of trustees. The hearing shall be conducted according to the procedure in section 48-383, unless otherwise agreed in writing within ten calendar days of the hearing. The appellant has the right to appeal the decision of the utility board of trustees to the city commission by filing a written notice with the city manager within 15 calendar days of receipt of the decision of the utility board of trustees. The decision of the utility board of trustees will be reversed only upon a vote of at least four city commissioners in favor of reversal.

(Code 1997, § 52.078; Ord. No. 02-49, 5-15-2002)

Sec. 48-383. - Appeal hearing procedures.

The following procedures shall be followed for an appeal to utility board of trustees:

- (1) A notice shall be served on the appellant specifying the time and place of a hearing to be held by the control authority's board of trustees, regarding the appeal. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten calendar days before the hearing. Service may be made on any agent or officer of a corporation.
- (2) The control authority's board of trustees may issue notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
- (3) At any hearing held pursuant to this division, testimony taken must be under oath and recorded stenographically or electronically. The party requesting stenographic recording shall be responsible for all arrangements and payment. The transcript, so recorded, will be made available to any member of the public or any party to the hearing, upon payment of the usual charges thereof.

(Code 1997, § 52.079; Ord. No. 02-49, 5-15-2002)

Sec. 48-384. - Nuisance.

It is declared to be a nuisance to discharge any sewage, industrial waste, or other waste, in violation of this division, federal, or state pretreatment requirements, or order of the TNRCC, E.P.A., city or control authority thereunder.

(Code 1997, § 52.080; Ord. No. 02-49, 5-15-2002)

Sec. 48-385. - Public participation.

- (a) The control authority shall publish, at least annually, in the newspaper having the greatest circulation in the municipality, a list of the users which were in significant noncompliance with any provisions of the pretreatment ordinance, or any permit or order issued hereunder during the 12 previous months. A form titled "Notice of Violation" will be used to publish the users found to be in significant noncompliance. The pretreatment coordinator is responsible for calculating significant noncompliance.
- (b) Significant noncompliance evaluations will be done consistent with the EPA Region 6 policy of determining significant noncompliance using the rolling quarters technique. The evaluations will be done within ten days after the end of every pretreatment quarter to cover the previous six-month reporting period. The POTW evaluation periods are: July to December, October to March, January to June and April to September. The pretreatment coordinator shall utilize the format "Preparing a Compliance Summary" when a user in noncompliance fails to return to compliance and procedures for legal action should be initiated. The pretreatment coordinator shall be responsible for preparing and submitting the form titled "Notice of Violation" to publish in the newspaper the users found to be in significant noncompliance. The notification shall also summarize any enforcement actions taken against the users during the same 12 months. All records relating to compliance with pretreatment standards shall be made available to officials of the TNRCC or U.S.E.P.A. upon request. For the purpose of this division, an industrial user is in significant noncompliance if violations meet one or more of the following criteria:
- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.
 - (2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH.).
 - (3) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).
 - (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
 - (5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
 - (6) Failure to provide, within 30 days after the due date, required reports, such as baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.
 - (7) Failure to accurately report noncompliance.
 - (8) Any other violation or group of violations which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

(Code 1997, § 52.081; Ord. No. 02-49, 5-15-2002)

Sec. 48-386. - Judicial remedies.

If any person discharges sewage, industrial wastes, or other wastes into the city's wastewater disposal system contrary to the provisions of this division, or any order or permit issued hereunder, the

control authority or its legal counsel may commence an action for appropriate legal and/or equitable relief in any court of competent jurisdiction.

(Code 1997, § 52.082; Ord. No. 02-49, 5-15-2002)

Sec. 48-387. - Injunctive relief.

Whenever an industrial user has violated or continues to violate the provisions of this division, or permit or order issued hereunder, the control authority or its legal counsel may petition a court of competent jurisdiction for the issuance of a restraining order and/or temporary or permanent injunction, or both (as may be appropriate), which restrains or compels the activities on the part of the industrial user, in addition to all other remedies at law or in equity, and other expenses associated with the seeking of injunctive relief.

(Code 1997, § 52.083; Ord. No. 02-49, 5-15-2002)

Sec. 48-388. - Affirmative defense in criminal prosecutions.

In any criminal prosecution brought pursuant to section 48-255, the industrial user may offer proof in justification of his act or failure to act, where applicable, as follows:

(1) *Treatment upsets.*

- a. Any industrial user which experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation, shall inform the general manager thereof immediately upon becoming aware of the upset. Where such information is given orally, a written report thereof shall be filed by the user within five days. The report shall contain:
 1. A description of the upset, its causes, and impact on the discharger's compliance status.
 2. The duration of noncompliance, including exact dates and times of noncompliance, and, if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored.
 3. All steps taken or planned to reduce, eliminate, and prevent recurrence of such an upset.
- b. An industrial user which complies with the notification provisions of this section in a timely manner shall have an affirmative defense to any enforcement action brought by the general manager, as an agent of the utility board of trustees, for any noncompliance with this division, or an order or permit issued hereunder by the user, which arises out of violations attributable to and alleged to have occurred during the period of the documented and verified upset.

(2) *Treatment bypasses.*

- a. A bypass of the treatment system is prohibited unless all of the following conditions are met:
 1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 2. There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and

3. The industrial user properly notified the general manager, as an agent of the utility board of trustees, as described in subsection (2)b of this section.
- b. Industrial users must provide immediate notice to the general manager, as an agent of the utility board of trustees, upon discovery of an unanticipated bypass. If necessary, the general manager may require the industrial user to submit a written report explaining the causes, nature, and duration of the bypass, and the steps being taken to prevent this recurrence.
- c. An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation of the treatment system. Industrial users anticipating a bypass must submit written notice to the general manager at least ten days in advance. The general manager, as an agent of the utility board of trustees, may only approve the anticipated bypass if the circumstances satisfy those set forth in subsection (2)a of this section.

(Code 1997, § 52.084; Ord. No. 02-49, 5-15-2002)