

**An ordinance amending various sections of Division 2, "Industrial Waste Discharge", of Article III, "City Sewer Service", of Chapter 13, "Municipal Utilities and Services", of the Victoria City Code to modify the local limits therein, and make other miscellaneous changes to conform to requirements of the Texas Commission on Environmental Quality (TCEQ), amending Section 24-131 of the Victoria City Code to designate fees therein, repealing conflicting parts of ordinances, providing for severability, providing a savings clause, providing for codification, providing a penalty not to exceed \$2,000 upon conviction, providing for publication, and declaring an effective date.**

The City Council finds, for purposes of calculating the industrial wastewater surcharge charge factor for wastewater having a BOD concentration greater than 200 mg/l and a TSS concentration greater than 250 mg/l, that approximately 40% of the City's costs are chargeable to transport and treatment of wastewater volume.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VICTORIA, TEXAS:

1.

Subsection (a)(6) of Section 13-110 of the Victoria City Code is amended to read as follows:

(6) To enable the city to comply with its Texas Pollutant Discharge Elimination System (TPDES) permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the wastewater system is subject.

2.

Subsection (b) of Section 13-110 of the Victoria City Code is amended to read as follows:

(b) Administration. Except as otherwise provided herein, the Director of Utilities of the City of Victoria, or his/her duly authorized representative, shall administer, implement, and enforce the provisions of this division. Any powers granted to or duties imposed upon the director may be delegated by the director to other city personnel.

3.

Subsection (c) of Section 13-110 of the Victoria City Code is amended to replace "NPDES" and "National Pollutant Discharge Elimination System" in the abbreviation table with "TPDES" and "Texas Pollutant Discharge Elimination System".

4.

Subsection (d) of Section 13-110, "General Provisions", is amended to add unlisted definitions and modify existing definitions that are shown below to read as follows:

*Act of God* means an act occasioned exclusively by forces of nature without the interference of any human agency. Any accident produced by any physical cause, which is irresistible, such as lightning, tempests, peril of the seas, tornadoes, earthquakes.

*Approval authority.* The regional administrator of EPA Region 6 or, the director of the environmental agency for the State of Texas.

*Director* means the director of the utilities department of the City of Victoria, or his/her duly authorized representative. Where the term "director" is used, it shall refer to the director of utilities.

*Interference* means a discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the city's TPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

*Pass through* means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any

requirement of the city's TPDES permit (including an increase in the magnitude or duration of a violation).

5.

Subsection (a)(2)b, (a)(2)k, (a)(2)l, and (a)(2)o of Section 13-111 of the Victoria City Code are amended to read as follows:

b. Wastewater having a pH less than 5.0 or more than 10.5, or otherwise capable of causing corrosive structural damage to the POTW or equipment, or harm or hazard to personnel of the POTW or city;

k. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's TPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten (10) per cent from the seasonably established norm for aquatic life;

l. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

o. Medical wastes that the director determines will endanger wastewater system workers;

6.

Subsections (d) and (h)(2) of Section 13-111 of the Victoria City Code is amended to read as follows:

(d) *Local limits.* The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits.

- 0.22 mg/l arsenic
- 0.05 mg/l cadmium
- 1.3 mg/l chromium
- 1.3 mg/l copper
- 0.68 mg/l cyanide
- 0.42 mg/l lead
- 0.024 mg/l mercury
- 0.85 mg/l nickel
- 1.0 mg/l silver
- 2.2 mg/l zinc

The above limits apply at the point where the wastewater is discharged to the public sanitary sewer. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The director may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

(h) . . (2) Unless authorized by the State and/or EPA, no person may deposit or discharge any wastewater on public or private property in or adjacent to any:

- a. Natural outlet;
- b. Watercourse;
- c. Storm sewer; or
- d. Other areas within the jurisdiction of the city.

7.

Subsection (d) of Section 13-112 of the Victoria City Code is amended to read as follows:

(d) Hauled wastewater.

(1) Septic tank waste may be introduced into the POTW only at locations designated by the director, and at such times as are established by the director. Such waste shall not violate section 13-111 of this division or any other requirements established by the city. Wastewater discharge permits for individual vehicles to discharge septic tank waste may be issued by the director.

(2) Haulers of industrial waste may not discharge any industrial waste or wastewater into a public sanitary sewer or any other component of the POTW unless those wastes are dumped in conformity with a permit to discharge such industrial waste issued by either (1) the Director or (2) a person in charge of a component of the POTW who the Director has authorized to issue such a permit. The director may issue wastewater

discharge permits to any generators of hauled industrial waste so discharged. The director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this division.

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

(4) Industrial waste haulers who discharge any waste or wastewater into a public sanitary sewer or any other component of the POTW must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(5) Hauled wastes acceptable at the POTW must have originated from within Victoria County or any county bordering upon Victoria County.

8.

Subsections (e) and (g) of Section 13-114 of the Victoria City Code are amended to read as follows:

(e) *Wastewater discharge permit transfer.* Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the director and the director approves the wastewater discharge permit transfer. A copy of the permit will be issued to the new owner or operator upon approval of the director when the transfer requirements have been met. The notice to the director must include a written certification by the new owner or operator which:

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

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

(g) *Wastewater discharge permit reissuance.*

- (1) A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with section 13-113(f) of this division, a minimum of 30 days prior to the expiration of the user's existing wastewater discharge permit.
- (2) An expired permit will continue to be effective and enforceable until the permit is reissued if:
  - a. The user has submitted a complete permit application at least 30 days prior to the expiration date of the user's existing permit; and
  - b. 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 user.

9.

Subsections (a)(2)b, (d)(2), and (k)(1) of Section 13-115 of the Victoria City Code are amended to read as follows:

(a) . . . (2) . . . b. *Environmental permits.* A list of any environmental control permits held by or for the facility and the categorical determination that has been assigned by the Approval Authority for the facility.

(d) . . . (2) All permitted minor users shall, at a frequency and date determined by the director, but in no case less than once per year, submit compliance reports indicating the BOD levels and TSS concentrations in their discharges, as well as indicating the nature and concentrations of pollutants in their discharges which are limited by pretreatment standards and the measured or estimated average daily flows for the reporting period. All compliance reports must be signed and certified in accordance with section 13-113(g) of this division.

(k) . . . (1) Except as indicated in subsection (2) below, the user must collect wastewater samples using flow proportional composite collection techniques unless the director approves time proportional sampling of which a minimum of four grab samples are collected. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

10.

Subsection (b)(3) of Section 13-116 of the Victoria City Code is amended to read as follows:

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

11.

Section 13-117 of the Victoria City Code is amended to read as follows:

**Sec. 13-117. Confidential information**

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

12.

Subsections (1) and (2) of Section 13-118 of the Victoria City Code are amended to read as follows:

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

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

13.

Subsections (a) and (b) of Section 13-122 of the Victoria City Code are amended to read as follows:

(a) *Act of God.* If a person can establish that an event that would otherwise be a violation of a statute within the commission's jurisdiction or a rule adopted or an order or a permit issued under such a statute was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of that statute, rule, order, or permit.

(b) *Prohibited discharge standards.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 13-111(1) of this division or the specific prohibitions in section 13-111(2)c. through f. and 13-111(2)j. through s. of this division if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; (b) if a specific size, temperature, or other numerical limit exists, the user was in compliance with that numerical limit directly prior to, and during, the pass through or interference; or (c) no local limit or specific numerical limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the POTW was regularly in compliance with its TPDES permit and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.

14.

(3) *Surcharge for excessive strength wastewater.* Excessive strength wastewater which exhibits none of the characteristics of waste prohibited by sections 13-111(a) through (d), but which exceeds a concentration specified in subsection (1) above, may be accepted for conveyance and treatment in the city's wastewater system and the POTW if the wastewater will not cause interference with the POTW, and if the industrial user discharging such wastewater agrees to pay an industrial wastewater surcharge over and above the published regular charge for such sewer service, plus industrial pretreatment charges and industrial pretreatment permit fees as shown in the City's fee ordinance.

15.

Section 24-131 of the Victoria City Code is amended to add the following "Industrial wastewater surcharge" subsection, which will read as follows:

Industrial wastewater surcharge.

Section 13-110 definitions shall apply to this subsection. The additional monthly *industrial wastewater surcharge* shall increase the monthly *sewer service charge* for a user who has had a sampled BOD concentration greater than 200 mg/l and a TSS concentration greater than 250 mg/l by multiplying the *charge factor* by the *wastewater use charge*, and adding it to the *sewer service charge* as shown below:

$Charge\ factor = [.3 \times (\text{sampled BOD concentration}/200\ \text{mg/l BOD})] + [.3 \times (\text{sampled TSS concentration}/250\ \text{mg/l TSS})] - 0.6$

*Sewer rate per 1,000 gallons* = the rate that the city charges per 1,000 gallons discharged above the monthly minimum

$Wastewater\ Use\ Charge = (\text{sewer rate per 1,000 gallons} \times \text{gallons discharged}) / 1,000$

$Industrial\ Wastewater\ Surcharge = Charge\ factor \times Wastewater\ Use\ Charge$

Total monthly wastewater charge for surcharged user = *industrial wastewater surcharge* + *sewer service charges per Section 24-122*

This industrial wastewater surcharge shall apply to grease or grit generators that are deemed to be "users" pursuant to Section 13-131 of the City Code.

If an entity is required to sample its wastewater, then the monthly sewer service consumption charge in Section 24-122 shall be assessed and billed to each sewer system customer on the basis of its metered monthly water consumption. A sampled entity shall not be entitled to a gallonage allowance included in the base charge and shall not be entitled to a computation period based on the last complete three-month period of December, January, and February that preceded the billing date.

16.

Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed \$2,000 as provided in Section 1-8 of the City Code.

17.

In addition to any other remedy provided by law, the City and its officers shall have the right to enjoin any violation of this Ordinance by injunction issued by a court of competent jurisdiction.

18.

All parts of ordinances in conflict with this ordinance are repealed to the extent of such conflict.

19.

If any provision of this Ordinance, or the application thereof to any person or circumstances, shall be held invalid or unconstitutional by a Court of competent jurisdiction, such invalidity shall not affect the other provisions, or application thereof, of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

20.

The Code of the City of Victoria, Texas, as amended, shall remain in full force and effect, save and except as amended by this Ordinance.

21.

It is the intention of the City Council that this Ordinance shall become a part of the Code of the City of Victoria, Texas, and it may be renumbered and codified therein accordingly.

22.

The City Secretary shall publish the caption or a descriptive title of this Ordinance one time within 10 days after final passage of the ordinance in a newspaper of general circulation in the City of Victoria in accordance with Article II, § 10 of the City Charter.

23.

This ordinance shall become effective 10 days after final passage and approval by the City Council of the City of Victoria, Texas.

PASSED FIRST READING, this the 1<sup>st</sup> day of July, 2003.

AYES: 7  
NAYS: 0  
ABSTENTIONS: 0

PASSED SECOND READING, this the 22<sup>ND</sup> day of JULY, 2003.

AYES: 6  
NAYS: 0  
ABSTENTIONS: 0

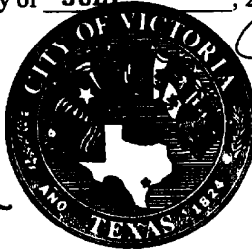
PASSED THIRD READING, this the 22<sup>ND</sup> day of JULY, 2003.

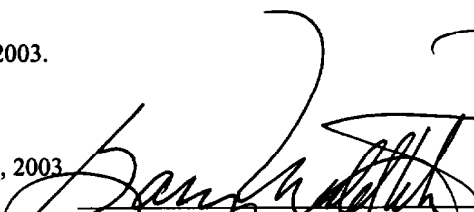
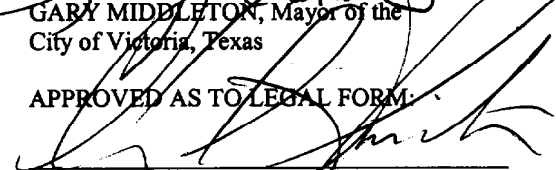
AYES: 6  
NAYS: 0  
ABSTENTIONS: 0

APPROVED AND ADOPTED, this the 22<sup>ND</sup> day of JULY, 2003.

ATTEST:

  
SCARLET SWOBODA, City Secretary



  
GARY MIDDLETON, Mayor of the  
City of Victoria, Texas  
  
APPROVED AS TO LEGAL FORM:  
DAVID ATMAR SMITH, City Attorney

Distribution: Legal Department  
Department of Utilities  
The Victoria Advocate

Copies Sent: JULY 30, 2003