

DIVISION 2. INDUSTRIAL WASTE DISCHARGE*

***Editor's note**--Section 2 of Ordinance No. 93-19, adopted July 20, 1993, amended Ch. 13, Art. III, Div. 2 to read as herein set out. Former Ch. 13, Art. III, Div. 2, §§ 13-110-13-116 pertained to similar subject matter and derived from Code 1960, §§ 20-51--20-56; Ord. No. 84-12, § 1, adopted May 7, 1984; Ord. No. 86-14, § 3, adopted June 2, 1986 and Ord. No. 91-11, § 1, adopted April 15, 1991. Section 1 of Ord. No. 93-19 repealed Ord. No. 93-16, not codified herein, adopted June 15, 1993.

Cross reference(s)--Wash racks, § 13-98; unlawful deposits, § 13-101; grease traps, § 13-103.

Sec. 13-110. General provisions.

- (a) *Purpose and policy.* This division sets forth uniform requirements for users of the wastewater collection, transportation, and treatment system (collectively "wastewater system") for the City of Victoria, Texas, and enables the city to comply with all applicable state and federal laws including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this division are:
- (1) To prevent the introduction of pollutants into the wastewater system that will interfere with its operation;
 - (2) To prevent the introduction of pollutants into the wastewater system that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the wastewater system;
 - (3) To protect the wastewater system personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
 - (4) To improve the opportunity to recycle and reclaim wastewater and sludge from the wastewater system;
 - (5) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the wastewater system; and
 - (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.

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

- (b) *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.
- (c) *Abbreviations.* The following abbreviations when used in this division shall have the designated meanings:

TABLE INSET:

BOD	-	Biochemical oxygen demand
CFR	-	Code of Federal Regulations
COD	-	Chemical oxygen demand
EPA	-	U.S. Environmental Protection Agency
gpd	-	gallons per day
l	-	liter
LEL	-	lower explosive limit
mg	-	Milligrams
mg/l	-	milligrams per liter
TPDES	-	Texas Pollutant Discharge Elimination System
POTW	-	Publicly owned treatment works
RCRA	-	Resource Conservation and Recovery Act
SIC	-	Standard Industrial Classification
TSS	-	Total suspended solids
U.S.C.	-	United States Code

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

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

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 Texas Commission on Environmental Quality (TCEQ).

Authorized representative of the user:

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

- b. The manager of one (1) or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$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) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 - (3) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (4) The individuals described in paragraphs (1) through (3) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty (20) degrees Centigrade, usually expressed as a concentration [milligrams per liter (mg/l)].

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

City means the City of Victoria, Texas, or the city council of Victoria, Texas and those persons authorized by the city council to represent the city.

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 director of the department of utilities of the City of Victoria.

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.

Domestic wastewater means waterborne waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, and institutions, free from storm water, surface water, and industrial waste. Normal domestic wastewater shall mean domestic wastewater that is "normal" sewage for the city, in which neither of the following concentrations are exceeded:

BOD = 200 milligrams per liter of wastewater

TSS = 250 milligrams per liter of wastewater

Environmental Protection Agency (EPA) means the U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official of said agency.

Excessive strength wastewater means any wastewater in which either of the following concentrations are exceeded:

BOD = 200 milligrams per liter of wastewater

TSS = 250 milligrams per liter of wastewater

Existing source means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

Grab sample means a sample, which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

Indirect discharge (or discharge) means the introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.

Industrial user (or user) means any person that discharges non-domestic wastewater to the city wastewater system and any other source of "indirect discharge" as defined above. (This term is synonymous with "user.")

Industrial waste means waterborne solids, liquids, or gaseous wastes resulting from and discharged, permitted to flow, or escaping from any industrial, manufacturing, or food-processing operation or process, or from the development of any natural resource including oil or gas, or any mixture of these with water or domestic wastewater. (The term is generally synonymous with "non-domestic wastewater" or "non-domestic waste.")

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

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

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

Minor industrial user (or minor user) means any user that discharges "excessive strength wastewater" (as the term is herein defined) to the city wastewater system, but that is not a significant industrial user.

New source:

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1) b. or c. above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - a. Begun, or caused to begin as part of a continuous on-site construction program
 1. Any placement, assembly, or installation of facilities or equipment; or
 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which are necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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.

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).

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

pH means a measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, chemical oxygen demand (COD), toxicity, or odor].

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

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

Pretreatment standards (or standards) means prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards (or prohibited discharges). Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 13-111 of this division.

Public sanitary sewer means a sanitary sewer in which all owners of abutting properties have equal rights, and which is controlled by the city or other public authority.

Publicly owned treatment works (POTW) means a "treatment works," as defined by Section 212 of the Act (33 U.S.C. § 1292), a portion of which is owned by the Guadalupe-Blanco River Authority and a portion of which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. This definition, however, does not include pipes, sewers, other conveyances, or sampling points located exclusively on private property and that are physically located anterior to the indirect discharge point.

Sanitary sewer means a sewer which carries wastewater to which storm, surface, and ground waters are not intentionally admitted.

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

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

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

Significant industrial user

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

Slug load (or slug) means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 13-111(a) of this division.

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

State means the State of Texas.

Storm water means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

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

Treatment plant effluent means the discharge from the POTW into waters of the United States.

User (or industrial user) means any person who discharges non-domestic wastewater to the wastewater system, and any other source of "indirect discharge" as defined herein. (This term is synonymous with "industrial user.")

Wastewater means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are discharged into the wastewater system and contributed to the POTW.

Wastewater system means the wastewater collection, transportation, and treatment system of the City of Victoria.

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

The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

(Ord. No. 93-19, § 2, 7-20-93)

Sec. 13-111. General sewer use requirements.

(a) *Prohibited discharge standards.*

- (1) *General prohibitions.* No user shall introduce or cause to be introduced into a public sanitary sewer or any other component of the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all industrial users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.
- (2) *Specific prohibitions.* No user shall introduce or cause to be introduced into a public sanitary sewer or any other component of the POTW the following pollutants, substances, or wastewater:
 - a. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty (140) degrees Fahrenheit (sixty (60) degrees centigrade) using the test methods specified in 40 CFR 261.21.
 - 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;
 - c. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than one-half ($1/2$) inch in any dimension;
 - d. Any substances which may cause obstruction to the flow in a public sanitary sewer or other interference with the operation of the POTW such as, but not limited to: grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags,

spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;

- e. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW. In no case shall a discharge load have a flow rate or contain concentration or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation;
- f. Wastewater having a temperature greater than sixty (60) degrees centigrade (one hundred forty (140) degrees Fahrenheit), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed forty (40) degrees centigrade (one hundred four (104) degrees Fahrenheit);
- g. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- h. 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;
- i. Trucked or hauled pollutants, except at discharge points designated by the director in accordance with section 13-112(d) of this division;
- j. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- 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;
- m. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, and unpolluted water, unless specifically authorized by the director;

- n. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- o. Medical wastes that the director determines will endanger wastewater system workers;
- p. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- q. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW; or
- r. Fats, oils, or greases of animal or vegetable origin in concentrations that require unusual attention or expense to handle such material at the wastewater treatment plant or in the collection system.
- s. Any wastewater of such character or quantity that unusual attention or expense is required to handle such material at the wastewater treatment plant or in the collection system.

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.

- (b) *Federal categorical pretreatment standards.* The national categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.
- (c) *State pretreatment standards.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this division.
- (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.

- (e) *City's right of revision.* The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.
- (f) *Special agreement.* The city reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, a user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. A user also may request a variance from the categorical pretreatment standard from the approval authority. Such a request will be approved only if the user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that categorical pretreatment standard. A user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.
- (g) *Dilution.* No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The director 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.
- (h) *Compliance with authority.*
 - (1) Unless exception is granted by the director, the public sanitary sewer system shall be used by all persons located within the footage requirements specified in section 13-94 of the City Code of the City of Victoria discharging any wastewater.
 - (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.

(Ord. No. 93-19, § 2, 7-20-93; Ord. No. 96-14, § 1, 9-17-96)

Sec. 13-112. Pretreatment of wastewater

- (a) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this division and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in section 13-111(a) of this division within the time limitations specified by the EPA, the state, or the director, whichever is more stringent. Any facilities necessary for

compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and their operating procedures shall be submitted to the director for review, and shall be acceptable to the director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this division. Any subsequent changes in the pretreatment facilities or their method of operation shall be reported to and be reviewed for approval by the director prior to the user's initiation of the changes.

(b) *Additional pretreatment measures.*

- (1) Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this division.
- (2) The director 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.
- (3) Grease, oil, and sand interceptors shall be provided for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of adequate capacity, shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature, and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at his/her expense.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- (5) At no time shall two (2) readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, be more than five (5) per cent nor any single reading over ten (10) per cent of the lower explosive limit of the meter.

(c) *Accidental discharge/slug control plans.* At least once every two (2) years, the director shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The director may require any user to develop, submit for approval, and implement such a plan. Alternatively, the director may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

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

- (3) Procedures for immediately notifying the POTW of any accidental or slug discharge, as required by this division; and
 - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.
- (d) *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 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) 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 waste hauler to provide a waste analysis of any load prior to discharge.
 - (4) Waste haulers who discharge any waste or wastewater into a designated location 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 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 waste and the known or suspected waste constituents.
 - (5) Hauled wastes accepted at the POTW must have originated from within Victoria County or any county bordering upon Victoria County.

Sec. 13-113. Wastewater discharge permit application

- (a) *Wastewater survey.* When requested by the director, an industrial user must submit information on the nature and characteristics of its wastewater by completing a wastewater survey within thirty (30) days of the request. The director is authorized to prepare a form for this purpose and may periodically

require users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the user and shall be considered a violation of this division. The director may require any proposed new industrial user to complete and submit a wastewater survey at least thirty (30) days prior to commencing its discharge.

- (b) *Wastewater discharge permit requirement.*
 - (1) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the director.
 - (2) The director may require other users (including, without limitation, minor industrial users discharging excessive strength wastewater) to obtain wastewater discharge permits as necessary to carry out the purposes of this division.
 - (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this division and subjects the wastewater discharge permittee to the sanctions set out in sections 13-119 through 13-121 of this division. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards with any other requirements of federal, state, and local law.
- (c) *Wastewater discharge permitting; existing connections.* Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this division and who wishes to continue such discharges in the future shall, within ninety (90) days after said date, apply to the director for a wastewater discharge permit in accordance with subsection (f) of this section, and shall not cause or allow discharges to the POTW to continue after one hundred eighty (180) days of the effective date of this division except in accordance with a wastewater discharge permit issued by the director.
- (d) *Wastewater discharge permitting; new connections.* Any industrial user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning of recommencing of such discharge. An application for this wastewater discharge permit, in accordance with subsection (f) of this section must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.
- (e) *Wastewater discharge permitting; extra-jurisdictional connections.* Any industrial user located beyond the city limits shall submit a permit application in accordance with subsection (f) below within ninety (90) days of the effective date of this division, and shall not cause or allow discharges to the POTW to continue after one hundred eighty (180) days of the effective date of this division except in accordance with a wastewater discharge permit issued by the director. New industrial users located beyond the city limits shall submit such applications to the director ninety (90) days prior to discharging into the sanitary sewer. Upon review and approval of such application, the director may enter into a contract with the user which requires the user to subject itself to and abide by this division, including all permitting, compliance monitoring, reporting, and enforcement provisions herein.

- (f) *Wastewater discharge permit application contents.* All users required to obtain a wastewater discharge permit must submit a permit application. The director may require all users to submit as part of an application the following information:
- (1) All information required by section 13-115(a)(2) of this division.
 - (2) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - (3) Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - (4) Each product produced by type, amount, process or processes, and rate of production;
 - (5) Type and amount of raw materials processed (average and maximum per day);
 - (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
 - (7) Time and duration of discharges; and
 - (8) Any other information as may be deemed necessary by the director to evaluate the wastewater discharge permit application.

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

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

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

- (h) *Wastewater discharge permit decisions.* The director will evaluate the data furnished by the user and may require additional information. Within ninety (90) days of receipt of a complete wastewater discharge permit application, the director will determine whether or not to issue a wastewater discharge permit. The director may deny any application for a wastewater discharge permit.

(Ord. No. 93-19, § 2, 7-20-93)

Sec. 13-114. Wastewater discharge permit issuance process

- (a) *Wastewater discharge permit duration.* A wastewater discharge permit shall be

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

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

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

- a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
- b. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with subsection (e) of this section, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- c. Effluent limits based on applicable pretreatment standards;
- d. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
- e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

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

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

- e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
 - f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
 - g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
 - h. Other conditions as deemed appropriate by the director to ensure compliance with this division, and state and federal laws, rules, and regulations.
- (c) *Wastewater discharge permit appeals.* The director shall provide personal notice to the user and published notice to the public of the issuance, modification, or denial of a SIU wastewater discharge permit. Any affected person, including the user, may petition the director to reconsider the terms of an issued or modified wastewater discharge permit, or the denial of a permit, within thirty (30) days of notice of its issuance, modification, or denial.
- (1) Failure to submit a timely petition for reconsideration shall be deemed to be a waiver of the administrative appeal.
 - (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit. Any reasons urged against a permit denial must be fully explained.
 - (3) The effectiveness of the wastewater discharge permit, as issued or modified, shall not be stayed pending the appeal unless the director expressly so states.
 - (4) The director shall respond in writing to any petition for reconsideration within sixty (60) days. In his response, the director shall indicate his decision whether to affirm or modify the terms of any permit issued or modified, or whether upon reconsideration to deny the permit. If the permit was initially denied, the director shall indicate his decision whether to affirm the initial denial or to vacate the initial denial and issue the permit upon specified terms. The director's action upon any petition for reconsideration shall be considered final for purposes of any judicial review.
 - (5) If the director fails to act on any petition for reconsideration within sixty (60) days, the petition for reconsideration shall be deemed to be denied. Such deemed denial shall be considered final administrative action for purposes of judicial review.
 - (6) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint in a court of competent jurisdiction within the appropriate statute of limitations.

(d) *Wastewater discharge permit modification.* The director may modify the wastewater discharge permit for good cause including, but not limited to, the following:

- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the POTW, city personnel, lines, or equipment, or to the receiving waters;
- (5) Violation of any terms or conditions of the wastewater discharge permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (8) To correct typographical or other errors in the wastewater discharge permit; or
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

(e) *Wastewater discharge permit transfer.* Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the director and the director approves the wastewater discharge permit transfer. 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.

(f) *Wastewater discharge permit revocation.* Wastewater discharge permits may be revoked for, but not limited to, the following reasons:

- (1) Failure to notify the director of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the director of changed conditions pursuant to section 13-115(e) of this division;

- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring reports;
- (5) Tempering with monitoring equipment;
- (6) Refusing to allow the director timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this division.

A user will be notified of any proposed permit revocation and offered an opportunity to show cause under section 13-119(c) of this division why the proposed revocation should not occur. Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(g) *Wastewater discharge permit re-issuance.*

- (1) A user with an expiring wastewater discharge permit shall apply for a wastewater discharge permit re-issuance by submitting a complete permit application, in accordance with section 13-113(f) of this division, a minimum of thirty (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 thirty (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.

(Ord. No. 93-19, § 2, 7-20-93)

Sec. 13-115. Reporting requirements

(a) *Baseline monitoring reports.*

- (1) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4) (whichever is later), existing categorical users currently discharging to or scheduled to discharge to the POTW shall be required to submit to the director a report which contains the information listed in paragraph (2) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the director a report which contains the information listed in paragraph (2) below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.
- (2) Users described above shall submit the information set forth below.
 - a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.
 - 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.
 - c. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
 - e. *Measurement of pollutants.*
 1. The categorical pretreatment standards applicable to each regulated process.
 2. The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the director) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection (j) of this section.
 3. Sampling must be performed in accordance with procedures set out in subsection (j) of this section.
 - f. *Certification.* A statement, reviewed by the user's authorized

- (1) All significant industrial users shall, at a frequency determined by the director, but in no case less than twice per year, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 13-113(g) of this division.
 - (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.
 - (3) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
 - (4) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director, using the procedures prescribed in subsection (k) of this section, the results of this monitoring shall be included in the report.
- (e) *Reports of changed conditions.* Each user must notify the director of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least ninety (90) days before the change.
- (1) The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 13-113(f) of this division.
 - (2) The director may issue a wastewater discharge permit under section 13-113(h) of this division or modify an existing wastewater discharge permit under section 13-114(d) of this division in response to changed conditions or anticipated changed conditions.
 - (3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty (20) per cent or greater and the discharge of any previously unreported pollutants.
- (f) *Reports of potential problems.*
- (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load that may cause potential problems for the POTW, the user shall immediately telephone and notify the director of the incident. This notification shall include the location of

the discharge, type of waste, concentration and volume (if known) and corrective actions taken by the user.

- (2) Within five (5) days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this division.
 - (3) Failure to notify the director of potential problem discharges shall be deemed a violation of this division.
 - (4) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (1) above. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.
- (g) *Reports from un-permitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the director as the director may require.
- (h) *Notice of violation/repeat sampling and reporting.* If sampling performed by a user indicates a violation, the user must notify the director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within thirty (30) days after becoming aware of the violation. The user is not required to resample if the director monitors at the user's facility at least once a month, or if the director samples between the user's initial sampling and when the user receives the results of this sampling.
- (i) *Notification of the discharge of hazardous waste.*
- (1) Any user who commences the discharge of hazardous waste shall notify the city, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any

notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under subsection (e) of this section. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections (a), (c), and (d) of this section.

- (2) Dischargers are exempt from the requirements of paragraph (1) above during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
 - (3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
 - (4) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
 - (5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this division, a permit issued thereunder, or any applicable federal or state law.
- (j) *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.
- (k) *Sample collection.*
- (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.
 - (2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic chemicals must be obtained using grab collection

techniques.

- (l) *Timing.* Written reports will be deemed to have been submitted on the date post-marked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.
- (m) *Record keeping.* Users subject to the reporting requirements of this division shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this division and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the director.

(Ord. No. 93-19, § 2, 7-20-93; Ord. No. 96-14, § 2, 9-17-96)

Sec. 13-116. Compliance monitoring

- (a) *Control authority sampling.* The director shall have the right to randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. The director shall inspect and sample the effluent from each significant industrial user at least once a year.
- (b) *Right of entry; inspection and sampling.* The director, EPA, and state representatives shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this division and any wastewater discharge permit or order issued hereunder. Users shall allow the director, the EPA, and state representatives ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
 - (1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director, the EPA, and state representatives will be permitted to enter without delay for the purposes of performing specific responsibilities.
 - (2) The director, the EPA, and state representatives shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
 - (3) 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.

- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the director, the EPA, and state representative and shall not be replaced. The costs of clearing such access shall be born by the user.
 - (5) Unreasonable delays in allowing the director, the EPA, or state representative's access to the user's premises shall be a violation of this division.
- (c) *Search warrants.* If the director has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city 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 director may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. No. 93-19, § 2, 7-20-93)

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.

(Ord. No. 93-19, § 2, 7-20-93)

Sec. 13-118. Publication of users in significant noncompliance

The director shall publish annually, in the largest daily newspaper published in the city, a list of the significant users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and

requirements. The term significant noncompliance shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent 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 thirty-three (33) per cent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (3) Any other discharge violation that the director believes 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 pollutants that have caused imminent endangerment to the public or to the environment, or have resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide within thirty (30) days after the due date any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation(s) which the director determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 93-19, § 2, 7-20-93)

Sec. 13-119. Administrative enforcement remedies

- (a) *Notification of violation.* When the director finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon that user a written notice of violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the director. If the user denies that any violation occurred and/or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention shall be submitted to the director within ten (10) days of receipt of the notice. Submission of an explanation and/or plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency

actions or any other enforcement action, without first issuing a notice of violation.

- (b) *Consent orders.* The director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents may include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections (d) and (e) of this section and shall be judicially enforceable.
- (c) *Show cause hearing.* The director may order a user which has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.
- (d) *Compliance orders.* When the director finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified period of time. If the user does not come into compliance within the period of time specified, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.
- (e) *Cease and desist orders.* When the director finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:
 - (1) Immediately comply with all requirements; and
 - (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite

for, taking any other action against the user.

- (f) *Emergency suspensions.* The director may immediately suspend a user's discharge, after any reasonable notice to the user that is practical under the circumstances, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The director may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.
- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless the termination proceedings in subsection (g) of this section are initiated against the user.
 - (2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director prior to the date of any show cause or termination hearing under subsections (c) or (g) of this section.

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

- (g) *Termination of discharge.* In addition to the provisions in section 13-114(f) of this division, any user who violates the following conditions is subject to discharge termination:
- (1) Violation of wastewater discharge permit conditions;
 - (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
 - (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
 - (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
 - (5) Violation of the pretreatment standards in section 13-111 of this division.

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

(Ord. No. 93-19, § 2, 7-20-93)

Sec. 13-120. Judicial enforcement remedies

- (a) *Injunctive relief.* When the director finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director may petition any court of competent jurisdiction through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this division on activities of the user. The director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.
- (b) *Civil penalties.*
- (1) A user who has violated, or continues to violate, any provision of this division, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of not more than one thousand dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
 - (2) The city may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city, as well as civil penalties, in any court of competent jurisdiction.
 - (3) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
 - (4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.
- (c) *Criminal prosecution.*
- (1) A user who has willfully or negligently violated any provision of this division, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than two thousand dollars (\$2,000.00) per violation, per day.
 - (2) A user who has willfully or negligently introduced 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 of not more than two thousand dollars (\$2,000.00) per day of offending discharge. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
 - (3) A user who knowingly made any false statements, representations, or

certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this division, wastewater discharge permit, or order issued hereunder, or who falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this division shall, upon conviction, be punished by a fine of not more than two thousand dollars (\$2,000.00) per violation, per day.

- (d) *Remedies nonexclusive.* The remedies provided for in this division are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user.

(Ord. No. 93-19, § 2, 7-20-93)

Sec. 13-121. Supplemental enforcement action

- (a) *Water supply severance.* Whenever a user has violated or continues to violate any provision of this division, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.
- (b) *Public nuisances.* A violation of any provision of this division, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the director. Any person(s) creating such a public nuisance shall reimburse the city for any costs incurred in removing, abating, or remedying said nuisance.

(Ord. No. 93-19, § 2, 7-20-93)

Sec. 13-122. Affirmative defenses to discharge violations

- (a) *Act of God*
 - (1) 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.

(c) *Bypass.*

(1) For the purposes of this section:

- a. "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
- b. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

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

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

b. A user shall submit oral notice to the director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

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

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in

the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The user submitted notices as required under paragraph (3) of this section.
- b. The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three (3) conditions listed in paragraph (4) a. of this section.

(Ord. No. 93-19, § 2, 7-20-93)

Sec. 13-123. Pretreatment charges and fees

(a) *Excessive strength wastewater surcharge.*

(1) *Approval required.* Review and acceptance by the director, pursuant to subsection (3) below, shall be obtained prior to the discharge into the POTW of any wastewater having either of the following characteristics of "excessive strength wastewater":

- a. A biochemical oxygen demand (BOD) greater than two hundred (200) mg/l, and/or
- b. Total suspended solids (TSS) concentration greater than two-hundred fifty (250) mg/l.

(2) *Minor industrial user.* Any user that discharges excessive strength wastewater exceeding either the BOD or TSS concentration specified above, but that is not a significant industrial user, shall be deemed a "minor industrial user." The director may require any such minor industrial user to obtain a wastewater discharge permit pursuant to section 13-113 of this division; however, in so doing, the director may relax any application requirement in section 13-113(f) and any permit content requirement in section 13-114(b).

(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.

(a) *Fees for reimbursement of costs.* The city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

- (1) Fees for wastewater discharge permit applications, including the cost of

processing such applications;

- (2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- (3) Fees for reviewing and responding to accidental discharge procedures and construction;
- (4) Fees for filing appeals; and
- (5) Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this division and are separate from all other fees, fines, and penalties chargeable by the city.

(b) *Billing.*

- (1) The surcharges, charges, and fees specified in this section shall be billed and paid monthly in accordance with existing practices for regular sewer service charges.
- (2) Failure to pay monthly bills for sanitary sewer services when due or failure to pay an imposed surcharge or fee for industrial wastewater when due shall be sufficient cause to disconnect any and all services to the water and sanitary sewer mains of the city. The same penalties and charges now or hereafter provided for by ordinance passed by the city council for failure to pay a bill for water and sanitary sewer service when due shall be applicable in like manner in cases of failure to pay a surcharge imposed pursuant to subsection (a) above.

(Ord. No. 93-19, § 2, 7-20-93)