



## **Chapter 38**

# **WATER, SEWERS AND SEWAGE DISPOSAL**

### **ARTICLE V. INDUSTRIAL WASTES STANDARDS**

- Section 38-90. Purpose and Policy.**
- Section 38-91. Administration.**
- Section 38-92. Abbreviations.**
- Section 38-93. Definitions.**
- Section 38-94. Duties of the Director of Public Works.**
- Section 38-95. General sewer use requirements for the Temple – Belton Regional Sewerage System.**
- Section 38-96. General sewer use requirements for the Temple Sewerage System.**
- Section 38-97. Pretreatment of wastewater.**
- Section 38-98. Wastewater discharge permits.**
- Section 38-99. Wastewater discharge permit issuance.**
- Section 38-100. Reporting requirements.**
- Section 38-101. Compliance monitoring.**
- Section 38-102. Confidential information.**
- Section 38-103. Publication of user in significant noncompliance.**
- Section 38-104. Administrative enforcement remedies and administrative orders.**

**Section 38-105. Judicial enforcement remedies.**

**Section 38-106. Affirmative defenses to discharge violations.**

**Section 38-107. Miscellaneous provisions.**

**Section 38-108. Effective date.**

**Sections 38-109 - 38-125. Reserved.**

## ARTICLE V. INDUSTRIAL WASTES STANDARDS

### **Sec. 38-90. General provisions, purpose and policy.**

This ordinance sets forth uniform requirements for users of the publicly owned treatment works for the city 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 (CFR) Part 403). The objectives of this ordinance are:

(a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;

(b) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;

(c) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(d) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

(e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and

(f) To enable the 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 publicly owned treatment works is subject.

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

### **Sec. 38-91. Administration.**

Except as otherwise provided herein, the director of public works shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the director of public works may be delegated by the director to a duly authorized representative.

### **Sec. 38-92. Abbreviations.**

The following abbreviations and or definitions, when used in this ordinance, shall have

the designated meanings:

- BOD - Biochemical Oxygen Demand
- BMP - Best Management Practice
- BMR - Baseline Monitoring Report
- CFR - Code of Federal Regulations
- CIU - Categorical Industrial User
- COD - Chemical Oxygen Demand
- EPA - U.S. Environmental Protection Agency
- gpd - gallons per day
- IU - Industrial User
- mg/l - milligrams per liter
- POTW - publicly owned treatment works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classification
- SIU - Significant Industrial User
- SNC - Significant Noncompliance
- TCEQ - Texas Commission on Environmental Quality
- TPDES - Texas Pollutant Discharge Elimination System
- TSS - Total Suspended Solids
- TTO - Total Toxic Organics
- U.S.C. - United States Code

**Sec. 38-93. Definitions.**

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

*“Act or The Act”* shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251.

*Administrative fine* shall mean a punitive monetary charge unrelated to actual treatment costs which are assessed by the control authority rather than a court.

*Approval authority* shall mean the Texas Commission on Environmental Quality (TCEQ).

*Authorized or duly authorized representative of the industrial user* shall mean the

person authorized to represent, sign, and submit documents in accordance with the following criteria:

(a) If the user is a corporation:

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

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) 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.

(d) The individuals described in paragraphs (a) through (c), 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 of Temple.

*Best management practices or BMPs* shall mean the schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in section 38-95 (a)[40 CFR 403.5(a)(1) and (b)]. BMPs include treatment procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

*Biochemical oxygen demand or BOD* shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/L).requirements, operating

*Building drain* shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning three (3) feet outside

the inner face of the building wall.

*Building sewer* shall mean the extension from the building drain to the public sewer or other place of disposal.

*Bypass* shall mean the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

*Categorical industrial user* shall mean an industrial user subject to categorical standards as established by the U. S. Environmental Protection Agency.

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

*Cease and desist order* shall mean an administrative order directing an industrial user to immediately halt illegal or unauthorized discharges.

*Chemical oxygen demand or COD* shall mean a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

*City* shall mean the city of Temple, the city council of Temple or the duly authorized representatives of the city.

*Compliance order* shall mean an administrative order directing a noncompliant industry to achieve or restore compliance by a date specified in the order.

*Composite sample* shall mean a sampling method consisting of either discrete or continuous samples collected in equal amounts and over equal time intervals. For discrete sampling, at least 12 aliquots shall be composited. Where a 24-hour composite sample is not feasible, four (4) grab samples may be collected in equal amounts and equal time intervals. All samples must be representatives of normal daily operations.

*Consent order* shall mean an administrative order embodying a legally enforceable agreement between the control authority and the noncompliant industrial user designed to restore the user to compliance status.

*Control authority* shall mean the city or duly authorized representatives of the city.

*Daily limit or daily maximum limit* shall mean the maximum allowable discharge of a pollutant over a calendar day or equivalent representative 24-hour period. Where daily maximum limits are expressed in units of mass and the daily discharge is calculated by multiplying the daily average concentration and total flow volumes in the same 24-hour period by a conversion factor to get the desired units. Where daily limits are expressed in terms of a concentration, the daily discharge is the composite sample value, or flow weighted average if more than one discrete sample was collected. Where flow weighting is infeasible, the daily average is the arithmetic average of all samples if analyzed separately, or the same value if samples are composited prior to analysis.

*Direct discharge* shall mean the discharge of untreated wastewater directly to the

waters of the State of Texas.

*Environmental Protection Agency or EPA* shall mean the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division director, or other duly authorized official of said agency.

*Existing source* shall mean 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.

*Garbage* shall mean solid wastes from the preparation, cooking, and dispensing food, and from the handling, storage, and sale of produce.

*Grab sample* shall mean a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

*Indirect discharge or discharge* shall mean the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (4) of the Act, as amended.

*Industrial user* shall mean a source of indirect discharge which does not constitute a “discharge of pollutants” under regulations issued pursuant to Section 402 of the Act, (33 USC 1317) into the wastewater system (including holding tank waste discharged into the system).

*Industrial wastes* shall mean the liquid wastes from industrial processes as distinct from sanitary sewer.

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

*Interference* shall mean 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 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 there under, or any more stringent State or local regulations:

Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); 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.

*Local limit* shall mean a specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

*Medical waste* shall mean 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.

*Monthly average* shall mean the arithmetic mean of the effluent samples collected during a calendar month or specified 30-day period. Where the control authority has taken a sample during the period, it must be included in the monthly average if provided in time. However, where composite samples are required, grab samples taken for process control or by the control authority are not to be included in a monthly average.

*National pollution discharge elimination system or NPDES Permit* shall mean a permit pursuant to section 402 of the Act.

*National pretreatment standards, pretreatment standard, or standard* (i.e. prohibitive discharge standards, categorical pretreatment standards, and local limits) shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act, which applies to Industrial users. This term includes prohibitive discharge limits established pursuant to 403.5.

*New source*

(a) 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:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. 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.



(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section (a) (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous on-site construction program:
  - i. any placement, assembly, or installation of facilities or equipment; or
  - ii. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
2. Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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

*Pass through* shall mean 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* shall mean 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* shall mean a measure of the acidity or alkalinity of a solution, expressed in standard units.

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

*Pretreatment or treatment* shall mean 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* shall mean any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

*Pretreatment standard or standard* shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

*Process wastewater* shall mean any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by product, or waste product.

*Prohibited discharge standards or prohibited discharge* shall mean absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 38-95(a) of this ordinance.

*Properly shredded garbage* shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

*Publicly owned treatment works or POTW* shall mean “treatment works,” as defined by section 212 of the Act (33 U.S.C. \*1292). 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.

*Sanitary sewer* shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

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

*Sewage* shall mean human excrement and gray water (household showers, dish washing operations, etc.).

*Sewage treatment plant* shall mean an arrangement of devices and structures used for treating sewage.

*Sewage works* shall mean all facilities for collecting, pumping, treating and disposing of sewage.

*Sewer* shall mean a pipe or conduit for carrying sewage.

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

*Significant industrial user* shall mean:

(a) An industrial user subject to categorical pretreatment standards; or

(b) An industrial user that:

1. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blow down wastewater);
2. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
3. 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.

(c) Upon a finding that a user meeting the criteria in subsection (b), 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((f) (6), determine that such user should not be considered a significant industrial user.

*Slug load or slug* shall mean any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 38-95(a) of this ordinance. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

*Standard industrial classification code or SIC code* shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

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

*Suspended solids* shall mean 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.

*System* shall mean all facilities for collecting, pumping, treating and disposing of sewage.

*TBRSS pretreatment program* shall mean the approved Temple-Belton Regional Sewerage System pretreatment program as amended.

*Temple pretreatment program* shall mean the approved city of Temple pretreatment program as amended.

*Texas Commission on Environmental Quality (TCEQ)* shall mean the State agency of that title, or where appropriate, the term may also be used as a designation for the director or other duly authorized official of said agency.

*Upset* shall mean an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment regulations because of factors beyond the reasonable control of the industrial user. This does not include noncompliance caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

*User* shall mean any person who contributes, causes, or permits the contribution of wastewater into city's wastewater system.

*User permit* shall mean permits issued to significant industrial users and categorical industrial users by the city as set forth in section 38-99 of this ordinance.

*Wastewater* shall mean liquid and any water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

*Wastewater treatment plant or treatment plant* shall mean the portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

**Sec. 38-94. Duties of the director of public works.**

It shall be the duty of the director to see that certain provisions of this article as pertaining to the use of public sewers are carried out, to determine if the sewage collected by the sewer collection system is treatable, and to supervise the treatment of the sewage.

**Sec. 38-95. General sewer use requirements for the Temple-Belton Regional Sewerage System.**

*(a) Prohibited Discharge Standards.*

1. General prohibitions.
  - i. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

- ii. If in the opinion of the director, the character of the sewage from any manufacturer or industrial plant, building or other premises is such that it will (1) injure or interfere with wastewater treatment processes or facilities, (2) constitute a hazard to humans or animals, (3) create a hazard in receiving waters of the wastewater treatment plant effluent, or (4) violate appropriate Federal, State or local regulations, the city manager shall have the right to require such user to dispose of such waste otherwise, and prevent it from entering the system.
  - iii. The city shall require industrial users to control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and local limits upon reduction, loss, or failure of its treatment facility. In the event of a plant/system upset, provisions outlined in 40 CFR 403.16 shall prevail.
2. Specific Prohibitions. Except as hereinafter provided, no user shall introduce or cause to be introduced into the sewerage system of the city, directly or indirectly, any of the following pollutants, substances, or wastewater:
- i. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
  - ii. Wastewater having a pH less than 5.5 or more than 10.5 or otherwise causing corrosive material damage to the POTW or equipment;
  - iii. Solid or viscous substances in amounts which will cause obstruction resulting in interference to the flow in the POTW or interference with the proper operation of the sewage works,
  - iv. Wastewater with twenty-four (24) hour composite samples containing biochemical oxygen demand and/or total suspended solids in excess of eight (800) milligram per liter(mg/l).
  - v. Wastewater having a temperature greater than 40°C (104°F), or which will inhibit biological activity in the treatment plant resulting in interference,
  - vi. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
  - vii. 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;
  - viii. Trucked or hauled pollutants, except at discharge points designated by the director in accordance with section 38-97 (c) of this ordinance;
  - ix. 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 sewer for maintenance;

- x. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, inks, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's TPDES permit;
- xi. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- xii. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, contact cooling water, and unpolluted wastewater, unless specifically authorized by the city;
- xiii. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- xiv. Medical wastes, except as specifically authorized by the city in a wastewater discharge permit;
- xv. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- xvi. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- xvii. Any water or waste which may contain more than ninety-six (96.0) milligrams per liter of fat, oil or grease or other substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit.
- xviii. Any garbage that has not been properly shredded;
- xix. Any feathers, entrails, feet, bones, paunch manure, hair, fleshings or eggshells, whole blood or other liquids in quantities which exert an unusual oxygen or chlorine requirement or which result in a discoloration of the treatment plant influent.
- xx. Wastewater taken as a grab sample which contains total phenols and/or formaldehyde in concentrations greater than 15.7 parts per million.
- xxi. Wastewater which contains hydrogen sulfide measured as H<sub>2</sub>S or Fluoride that is discharged in an amount that would cause the levels of H<sub>2</sub>S or Fluoride to increase in the treated effluent from the sewage treatment plant.

Hazardous wastes that are prohibited by Regulatory Agencies shall not be discharged to the sewer 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) National Categorical pretreatment standards.*

Users must comply with the categorical Pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

1. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the director may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.
2. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same Standard, the director shall impose an alternate limit in accordance with 40 CFR 403.6(e).
3. A CIU may obtain a net/gross adjustment to a categorical Pretreatment standard in accordance with the following paragraphs of this Section.40 CFR 403.15:
  - i. Categorical Pretreatment standards may be adjusted to reflect the presence of pollutants in the Industrial user's intake water in accordance with this section. Any Industrial user wishing to obtain credit for intake pollutants must make application to the city. Upon request of the Industrial user, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (ii) of this section are met.
  - ii. Criteria.
    - a. Either (i) the applicable categorical Pretreatment standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial user demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.

- b. Credit for generic pollutants such as biochemical oxygen demand, total suspended solids and oil and grease should not be granted unless the Industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
- c. Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.
- d. Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The city may waive this requirement if it finds that no environmental degradation will result.

*(c) State pretreatment standards.*

Users must comply with TCEQ pretreatment standards codified at 30 TAC 315.

*(d) Local limits.*

1. The director is authorized to establish local limits pursuant to 40 CFR 403.5(c).
2. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum limit.

10.688 mg/L	Aluminum
0.121 mg/L	Arsenic
0.145 mg/L	Cadmium
1.478 mg/L	Chromium (T)
0.282 mg/L	Copper
0.524 mg/L	Cyanide
0.836 mg/L	Lead
0.001 mg/L	Mercury
0.207 mg/L	Molybdenum
0.662 mg/L	Nickel



96.00 mg/L	Oil and grease (T)
15.7 mg/L	Phenols/Formaldehyde combined
0.017 mg/L	Selenium
1.820 mg/L	Silver (T)
0.849 mg/L	TTO
0.661 mg/L	Zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise.

3. The city may develop best management practices by ordinance or in individual wastewater discharge permits to implement categorical standards only.

*(e) Right of revision.*

The city and/or TBRSS reserve the right to establish, by ordinance, or in wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.

*(f) Dilution.*

No user shall ever increase the use of process water, or in any way attempt to dilute 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.

**Sec. 38-96. General sewer use requirements for the Temple Sewerage System.**

*(a) Prohibited discharge standards.*

1. General prohibitions.

- i. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- ii. If in the opinion of the director, the character of the sewage from any manufacturer or industrial plant, building or other premises is such that it will (1) injure or interfere with wastewater treatment processes or facilities, (2) constitute a hazard to humans or animals, (3) create a hazard in receiving waters of the wastewater treatment plant effluent, or (4) violate appropriate Federal, State or local

regulations, the city manager shall have the right to require such user to dispose of such waste otherwise, and prevent it from entering the system.

- iii. The city shall require industrial users to control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and local limits upon reduction, loss, or failure of its treatment facility. In the event of a plant/system upset, provisions outlined in 40 CFR 403.16 shall prevail.
2. Specific Prohibitions. Except as hereinafter provided, no user shall introduce or cause to be introduced into the sewerage system of the city, directly or indirectly, any of the following pollutants, substances, or wastewater:
- i. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
  - ii. Wastewater having a pH less than 5.5 or more than 10.5 or otherwise causing corrosive material damage to the POTW or equipment;
  - iii. Solid or viscous substances in amounts which will cause obstruction resulting in interference to the flow in the POTW or interference with the proper operation of the sewage works;
  - iv. Wastewater with twenty-four (24) hour composite samples containing total suspended solids (TSS) in excess of eight (800) milligram per liter (mg/l);
  - v. Wastewater having a temperature greater than 40°C (104°F), or which will inhibit biological activity in the treatment plant resulting in interference;
  - vi. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
  - vii. 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;
  - viii. Trucked or hauled pollutants, except at discharge points designated by the director in accordance with section 38-97(c) of this ordinance;
  - ix. 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 sewer for maintenance;

- x. 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;
- xi. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- xii. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, contact cooling water, and unpolluted wastewater, unless specifically authorized by the city;
- xiii. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- xiv. Medical wastes, except as specifically authorized by the city in a wastewater discharge permit;
- xv. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- xvi. Concentrations exceeding one hundred seventy-five (175) milligrams per liter of oil and grease, wax, fats and plastic or other substances which will solidify or become discernibly viscous at any temperature between thirty-two (32) degrees Fahrenheit and one hundred fifty (150) degrees Fahrenheit.
- xvii. Any garbage that has not been properly shredded;
- xviii. Detergents, surface-active agents, or other substance which that might cause excessive foaming in the POTW;
- xix. Wastewater containing chemical oxygen demand in excess of twenty thousand (20,000) milligrams per liter; or
- xx. Any feathers, entrails, feet, bones, paunch manure, hair, fleshings or eggshells, whole blood or other liquids in quantities which exert an unusual oxygen or chlorine requirement or which result in a discoloration of the treatment plant influent;
- xxi. Wastewater taken as a grab sample which contains total phenols and/or formaldehyde in concentrations greater than 7 parts per million;
- xxii. Wastewater which contains Hydrogen Sulfide measured as H<sub>2</sub>S, Chlorides, or Fluoride that is discharged in an amount that would cause the levels of H<sub>2</sub>S or Fluoride to increase in the treated effluent from the sewage treatment plant.

Hazardous wastes are prohibited by regulatory agencies shall not be discharged to the sewer 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) National categorical pretreatment standards.*

The categorical pretreatment standards found at 40 CFR Chapter 1, Subchapter N, Part 405-471 are hereby incorporated.

1. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit in accordance with 40 CFR 403.6(e).
2. A CIU may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with the following paragraphs of this section.40 CFR 403.15.
  - i. Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the Industrial user's intake water in accordance with this section. Any industrial user wishing to obtain credit for intake pollutants must make application to the city. Upon request of the industrial user, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the criteria found in paragraph (ii) of this section are met:
  - ii. Criteria:
    - a. Either (i) the applicable categorical pretreatment standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The industrial user demonstrates that the control system it proposes or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.
    - b. Credit for generic pollutants such as biochemical oxygen demand, total suspended solids, and oil and grease should not be granted unless the Industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
    - c. Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.

- d. Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The city may waive this requirement if it finds that no environmental degradation will result.

*(c) State pretreatment standards.*

Users must comply with TCEQ codified at 30 TAC 315.

*(d) Local Limits.*

1. The director is authorized to establish local limits pursuant to 40 CFR 403.5(c).
2. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum limit.

0.03 mg/l	Arsenic
0.36 mg/l	Cadmium
9.14 mg/l	Chromium (T)
1.05 mg/l	Chromium (Hex)
0.50 mg/l	Copper
0.60 mg/l	Cyanide (Grab)
7.30 mg/l	Lead
0.08 mg/l	Mercury
1.75 mg/l	N-Ammonia
1.00 mg/l	Nickel
0.12 mg/l	Silver
7.03 mg/l	Zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise.

3. All industrial users shall be prohibited from discharging industrial contributory flow-based concentrations for BOD<sub>5</sub> exceeding those normally found in domestic sewage, unless specifically allowed by the control authority in the industrial user's wastewater discharge permit. The daily maximum allowable concentration of industrial contributory flow-based BOD<sub>5</sub> limit is eight thousand (8,000) mg/L.

4. The city may develop best management practices by ordinance or in individual wastewater discharge permits to implement categorical standards only.

*(e) 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 consistent with the purpose of this ordinance.

*(f) Dilution.*

No user shall ever increase the use of process water, or in any way attempt to dilute 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.

**Sec. 38-97. Pretreatment of wastewater.**

*(a) Pretreatment facilities.*

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in section 38-95 for industries discharging to the TBRSS system and section 38-96 for industries discharging to the Temple sewerage system, of this ordinance within the time limitations specified by EPA, the State, or the city, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. When required by the director of public works, the owner of any property served by a building sewer carrying industrial wastes, shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the industrial wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the city. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. Detailed plans describing such facilities and operating procedures shall be submitted to the city 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 ordinance.

*(b) Accidental discharge/slug control plans.*

The city shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The city may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. An accidental discharge/slug discharge 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 director of any accidental or slug discharge, as required by section 38-100 (f) of this ordinance; 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.

The results of such activities shall be available to the approval authority upon request. All documentation associated with BMP's shall be included.

The city will evaluate each SIU within one year of being designated an SIU to determine whether each such SIU needs a plan or other action to control slug discharges.

*(c) Hauled wastewater.*

1. Septic tank waste may be introduced into the POTW only at locations designated by the city, and at such times as are established by the city. Such waste shall not violate section 38-95 for the TBRSS system or 38-96 for the Temple system of this ordinance or any other requirements established by the city. The city may require septic tank waste haulers to obtain individual wastewater discharge permits.
2. Septic tank waste haulers may discharge loads only at locations designated by the director. No load may be discharged without prior consent of the chief operator at the POTW. The director may collect samples of each hauled load to ensure compliance with applicable standards. The director may require the septic tank waste hauler to provide a waste analysis of any load prior to discharge.
3. No industrial, hazardous waste is allowed to be discharged to the POTW.
4. Septic tank haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the 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 business the waste originated from, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

**Sec. 38-98. Wastewater discharge permits.**

*(a) Wastewater analysis.*

When requested by the city, a user must submit information on the nature and characteristics of its wastewater within (60) days of the request. The director is authorized to prepare a form for this purpose and may periodically require users to update this information.

*(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 city, except that significant industrial user that has filed a timely application pursuant to section 38-98 (c) of this ordinance may continue to discharge for the time period specified therein.
2. The city may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
3. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in sections 38-104 and 38-105 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or 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 ordinance and who wishes to continue such discharges in the future, shall, within 60 days after said date, apply to the director for a wastewater discharge permit in accordance with section 38-98 (e) of this ordinance, and shall not cause or allow discharges to the POTW to continue after 90 days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the city. For existing permitted user reapplication, see requirements in Section 38-99 (f).

*(d) Wastewater discharge permitting: New connections.*

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with section 38-98 (e) of this ordinance, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

*(e) Wastewater discharge permit application contents.*

All users required to obtain a wastewater discharge permit must submit a permit



application. The city may require all users to submit all or some of the following information as part of a permit application:

1. Identifying Information.
  - i. The name and address of the facility, including the name of the operator, owner, and facility contact person; and
  - ii. Contact information, description of activities, facilities, and plant production processes on the premises;
2. Environmental Permits. A list of any environmental control permits held by or for the facility.
3. Description of Operations.
  - i. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and 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 process(es);
  - ii. Number and type of employees, hours of operation, and proposed or actual hours of operation;
  - iii. Each product produced by type, amount, process or processes, and rate of production;
  - iv. Type and amount of raw materials processed and chemicals used (average and maximum per type);
  - v. 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;
4. Time and duration of discharges;
5. The location for monitoring all wastes covered by the permit;
6. 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 section 38-95 (b)(1) [40 CFR 403.6(e)];
7. Measurement of pollutants.
  - i. The categorical pretreatment standards applicable to each regulated process and any new categorically regulated process for existing sources.
  - ii. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the city, of regulated pollutants in the discharge from each regulated process.

- iii. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
  - iv. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 38-100 (i) of this ordinance. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the city or the applicable standards to determine compliance with the standard.
  - v. Sampling must be performed in accordance with procedures set out in section 38-100 (j) of this ordinance.
8. Any requests for a monitoring waiver, or a renewal of an approved monitoring waiver, for a pollutant neither present nor expected to be present in the discharge based on section 38-100 (d) (3) [40 CFR 403.12(e)(2)];
  9. Any other information as may be deemed necessary by the director to evaluate the wastewater discharge permit application.
  10. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

*(f) Application signatories and certification.*

1. 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, to be, 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.”*

2. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the director prior to or together with any reports to be signed by an authorized representative.

*(g) Wastewater discharge permit decision.*

After 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 or require additional safeguards, reports or information. For users not meeting the criteria of significant industrial users, the director may also waive or defer a permit, or allow discharges in the interim while a permit is being prepared.

*(h) Extraterritorial users.*

No discharge originating in areas outside the territorial limits of the city shall be made into any sanitary sewer of the city without first obtaining a special permit, which shall be subject to and incorporate by reference the terms of this ordinance.

**Sec. 38-99. Wastewater discharge permit issuance.**

*(a) 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) Permit Contents.*

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the city 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. Permits must contain:

- i. A statement that indicates wastewater discharge permit issuance date, expiration date and effective date; A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with Section 38- 99(d) of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- ii. Effluent limits, including best management practices, based on applicable pretreatment standards;
- iii. Self-monitoring, sampling, reporting, notification, and record- keeping requirements. These requirements shall include an identification of pollutants or best management practice to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;

- iv. 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;
  - v. Requirements to control slug discharge, if determined by the city to be necessary; and
2. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
- i. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
  - ii. 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;
  - iii. 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;
  - iv. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
  - v. 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
  - vi. Other conditions as deemed appropriate by the city to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

*(c) Permit modification.*

- 1. The city may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
  - i. To incorporate any new or revised Federal, State, and local pretreatment standards or requirements;
  - ii. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;

- iii. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- iv. Information indicating that the permitted discharge poses a threat to the POTW, city personnel, or the receiving waters;
- v. Violation of any terms or conditions of the individual wastewater discharge permit;
- vi. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- vii. Revision of or a grant of variance from categorical Pretreatment standards pursuant to 40 CFR 403.13;
- viii. To correct typographical or other errors in the wastewater discharge permit; or
- ix. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with section 38-99 (d).

*(d) 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 city and the director approves the wastewater discharge permit transfer. The notice to the city 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.

Upon approval by the city of the permit transfer, a copy of the new permit will be provided to the new owner(s).

*(e) Permit Revocation.*

The city may revoke a wastewater discharge permit for good cause, including, 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 38-100 (e) of this ordinance;

3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
4. Falsifying self-monitoring reports;
5. Tampering 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 ordinance.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership with the exception for transfer provisions outlined in Section 38-99 (d). All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

*(f) Permit reissuance.*

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 38-98 (e) of this ordinance, a minimum of 60 days prior to the expiration of the user's existing wastewater discharge permit.

**Sec. 38-100. 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 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

submit to the city a report which contains the information listed in paragraph (2), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

2. Users described above shall submit the information set forth below.
  - i. All information required in section 38-98 (e) (1)(i), section 38-98 (e) (2), section 38-98 (e) (3) (i), and section 38-98 (e) (6).
  - ii. Measurement of pollutants.
    - a. The user shall provide the information required in section 38-98 (e) (7) (i) through (iv).
    - b. The user shall take a minimum of one representative sample of daily operations to compile that data necessary to comply with the requirements of this paragraph.
    - c. Samples should be taken immediately downstream from the pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the pretreatment standards.
    - d. Sampling and analysis shall be performed in accordance with section 38-100 (i) and 40 CFR Part 136.
    - e. The director may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
    - f. The baseline report shall indicate the time, date and place of sampling and methods of analysis and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
  - iii. Compliance certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether Pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment standards and requirements. Compliance schedule. If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or operations and maintenance must be provided. The completion date in this schedule

shall not be later than the compliance due established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirement set out in section 38-100(b) of this ordinance.

- iv. All baseline monitoring reports must be certified in accordance with section 38-100(m) (1) of this ordinance and signed by an authorized representative.

*(b) Compliance schedule progress reports.*

The following conditions shall apply to the compliance schedule required by section 38-100 (a) (2) (iv) of this ordinance:

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

*(c) Reports on compliance with categorical pretreatment standard deadline.*

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source, 90 days following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the city a report containing the information described in section 38-98 (e) (6) and (7) and section 38-100 (a) (2) (ii) of this ordinance. All compliance reports must be signed and certified in accordance with section 38-98 (f) of this ordinance.

*(d) Periodic Compliance Reports.*

1. All significant industrial users shall, at a frequency determined by the city but in no case less than twice per year (in June and December or dates specified by the control authority), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the



pretreatment standard requires compliance with a best management practice or pollution prevention alternative, the user must submit documentation required by the city or the pretreatment standard necessary to determine the compliance status of the user.

2. All periodic compliance reports must be signed and certified in accordance with section 38-98 (f) of this ordinance.
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 regulated pollutant at the appropriate sampling location more frequently than required by the director, using the procedures prescribed in section 38-100 (j) of this ordinance, the results of this monitoring shall be included in the report.
5. User shall report the average and maximum daily flows for the reporting period and identify where flow estimates are used.
6. All periodic compliance reports must be signed and certified in accordance with section 38-100 (m) (1) of this ordinance.

*(e) Reports of changed conditions.*

Each user must notify the director of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 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 38-98 (e) of this ordinance.
2. The director may issue a wastewater discharge permit under section 38-99 (f) of this ordinance or modify an existing wastewater discharge permit under section 38-99 (c) of this ordinance in response to changed conditions or anticipated changed conditions.

*(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 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 ordinance.
3. A notice shall be permanently posted in a prominent place advising employees who to call in the event of a discharge described in paragraph above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
4. Significant Industrial users are required to notify the city immediately of any changes at its facility affecting the potential for a slug discharge.

*(g) Reports from unpermitted users.*

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

*(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. Resampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling. If the city has performed sampling, the user will repeat the sampling and analysis and submit the results of the repeat analysis to the director within thirty (30) days upon being notified by the city of any violations.

*(i) Analytical Requirements.*

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures. The tests shall be performed on the

samples taken at the location designated in each industry's Permit.

*(j) Sample Collection*

1. Except as indicated in Section 2 and 3 below, the user must collect wastewater samples using 24-hour flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the city. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
2. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
3. For sampling required in support of baseline monitoring and 90-day compliance reports required in section 38-100 (a) and (c) [40 CFR 403.12 (b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data is available, the city may authorize a lower minimum. For the reports required by paragraphs section 38-100 (d) [40 CFR 403.12(e) and 403.12(h)] the IU is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

*(k) Date of receipt of reports.*

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

*(l) Record keeping.*

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any

monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under sections 38-95 (d) (3) and 38-96 (d) (3). 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.

*(m) Certification Statements.*

(1) Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with section 38-98 (f); users submitting baseline monitoring reports under section 38-100 (a) (2) (v); users submitting reports on compliance with the categorical pretreatment standard deadlines under section 38-100 (c); and users submitting periodic compliance reports required by section 38-100 (d) (1) through (6). The following certification statement must be signed by an Authorized Representative as defined in Section 38-93:

*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, 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.*

**Sec. 38-101. Compliance monitoring.**

*(a) Right of entry: inspection and sampling.*

The city, or its representative(s), TBRSS representative(s), TCEQ representative(s), and EPA's representative(s) shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the representatives from the city, TBRSS, TCEQ and/or EPA, 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 will be permitted to enter without delay for the purposes of performing specific responsibilities.

2. The city, T-BRSS, TCEQ, and/or EPA 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 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, annually 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 and shall not be replaced. The costs of clearing such access shall be born by the user.
5. Unreasonable delays in allowing the director access to the user's premises shall be a violation of this ordinance.
6. When monitoring facility is constructed in the public right-of-way or easement, in an unobstructed location, the IU shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis and whether constructed on public or private property, the monitoring facilities should be provided in accordance with the city's requirements and all applicable local construction standards and specifications, and such facilities shall be constructed and maintained in such manner so as to enable the director to perform independent monitoring activities.
7. Search Warrant: If the city has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city, designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the director may seek issuance of a search warrant from the appropriate County or District Court.

### **Sec. 38-102. 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 city'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 city, 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 by 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.

**Sec. 38-103. Publication of user in significant noncompliance.**

- (a) The city shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the municipality where the POTW is located, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.
- (b) The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (3), (4), or (8) of this section) and shall mean:
1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the sampled pollutant parameter taken during a six (6) month period exceed by any magnitude, a numeric pretreatment standard or requirement, including instantaneous limits as defined in section 38-93;
  2. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limit, as defined by section 98-93 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 violation of a pretreatment standard or requirement as defined in section 38-93 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the city determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

4. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;
5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, 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 may include a violation of best management practices, which the director determines will adversely affect the operation or implementation of the local pretreatment program.

**Sec. 38-104. Administrative enforcement remedies and administrative orders.**

All enforcement actions shall follow the TCEQ approved enforcement response plan (ERP) and the enforcement response guide (ERG). This plan contains detailed procedures indicating how the control authority will investigate and respond to instances of industrial user noncompliance.

*(a) Notification of Violation.*

When the city finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon that user a written notice of violation. Within thirty (30) days of 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. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

*(b) Consent Orders.*

The city may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued

pursuant to sections 38-104 (d) and (e) of this ordinance and shall be judicially enforceable.

*(c) Show Cause Hearing.*

The city may order a user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the 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 fifteen (15) business days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in section 38-93 and required by section 38-98 (f) (1). 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 ordinance, 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 time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

*(e) Cease and Desist Orders.*

When the director finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the 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 informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The 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 section 38-104 (g) of this ordinance 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 sections 38-104 (c) or 38-104 (g) of this ordinance.

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 38-99 (e) of this ordinance, 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 38-95 for TBRSS or 38-96 for the Temple Sewerage System, of this ordinance.
6. Problems existing at the headworks.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 38-104 (c) of this ordinance 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.

### **Sec. 38-105. Judicial enforcement remedies.**

#### *(a) Injunctive Relief.*

When the director finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment standard or Requirement, the director may petition the district court 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 ordinance 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 ordinance, 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 \$2000 but not less than \$1000 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 director 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.
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 willfully or negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$2000 per violation, per day, or not more than one year imprisonment, or both.
2. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty up to \$2000, or be subject to not more than one year imprisonment, or both. 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 makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$2000 per violation, per day, or not more than one year imprisonment or both.
4. In the event of a second conviction, a user shall be punished by a fine of not more than \$2000 per violation, per day, or not more than one year imprisonment, or both.

*(d) Remedies Nonexclusive.*

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

**Sec. 38-106. Affirmative defenses to discharge violations.**

*(a) Upset.*

1. In an action brought in federal court and for the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error,

improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

2. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (3), below, are met.
3. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed contemporaneous operating logs or other relevant evidence that:
  - i. An upset occurred and the user can identify the cause(s) of the upset;
  - ii. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  - iii. The user has submitted the following information to the director within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:
    - a. A description of the indirect discharge and cause of noncompliance;
    - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
    - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
4. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
5. Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
6. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

*(b) Act of God.*

1. The Act of God defense constitutes a statutory affirmative defense [Texas Water Code Section 7.25] in an action brought in municipal or state court. If a person can establish that an event that would otherwise be a violation of a

pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of the ordinance or permit.

2. An industrial user who wishes to establish the Act of God affirmative defense shall demonstrate, through relevant evidence that:
  - i. An event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance occurred, and the sole cause of the event was an act of God, war, strike, riot or other catastrophe; and
  - ii. The industrial user has submitted the following information to the POTW and the city within 24 hours of becoming aware of the event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance (if this information is provided orally, a written submission must be provided within five days):
    - a. A description of the event, and the nature and cause of the event;
    - b. The time period of the event, including exact dates and times or, if still continuing, the anticipated time the event is expected to continue; and
    - c. Steps being taken or planned to reduce eliminate and prevent recurrence of the event.
  - iii. Burden of proof. In any enforcement proceeding, the industrial user seeking to establish the act of God affirmative defense shall have the burden of proving by a preponderance of the evidence that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot or other catastrophe.

*(c) 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 38-95 (a) (1) (i) through (iii) for industries discharging to the TBRSS system or section 38-96 (a) (1) (i) through (iii) for industries discharging to the Temple sewerage system of this ordinance or the specific prohibitions in sections 38-95 (a) (2) (i) through (xxi). for TBRSS industries or sections 38-96 (a) (2) (i) through (xxii) for Temple industries of this ordinance 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:

1. 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;
2. No local limit exists, but the discharge did not change substantially in nature

or constituents from the user's prior discharge when the city was regularly in compliance with its TPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

*(d) Bypass.*

1. For the purposes of this section:
  - i. Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility; and
  - ii. 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 provision of paragraphs (3) and (4) of this section.
3. Any other bypass must meet the following requirements:
  - i. 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.
  - ii. 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 report has been received within twenty-four (24) hours.
4. Bypass is prohibited, and the director may take an enforcement action against a user for a bypass, unless:
  - i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - ii. 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

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

**Sec. 38-107. Miscellaneous provisions.**

*(a) Review and approval; preliminary treatment; required facilities.*

1. The admission into the public sewers of any waters or wastes having (1) a five-day biochemical oxygen demand greater than three hundred (300) parts per million (ppm) by weight, or (2) containing more than four hundred (400) parts per million by weight of total suspended solids, or (3) containing any quantity of substances having the characteristics described in section 38-95 for the TBRSS or section 38-96 for the city of Temple, or (4) having an average daily flow greater than five per cent (5%) of the average daily sewage flow of the city, shall be subject to the review and approval of the director. Where the director has approved the admission of (1) or (2) above into the public sewer, that discharge may be subject to a surcharge as determined by the director.
2. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the director and no construction of such facilities shall be commenced until said approvals are obtained in writing.

*(b) Pretreatment Charges and Fees.*

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. Fees to recover administrative and legal costs [not included in section 38-107 (a) (2) associated with the enforcement activity taken by the director to address IU noncompliance; and
6. 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 ordinance and are separate from all other fees, fines, and penalties chargeable by the city.
7. Surcharges. After a review by the director, if a determination is made that the discharge is of such unusual strength and/or character that increased treatment within the sewer treatment plant would be required accompanied by increased treatment costs to the POTW, the discharge shall be subject to a surcharge. In no case will a discharge be accepted that will prevent the POTW from meeting its permit limits. The surcharge will be automatic beginning the third month for a user who has had two previous consecutive months with discharges of BOD or TSS which exceed the limits provided in 38-107 (a) (1) above. A surcharge is an additional charge by the POTW for the increased cost of handling discharge of unusual strength and character, and shall not serve as a variance to the requirements of this ordinance, nor shall it serve to bar the POTW from bringing a criminal action or civil action under section 38-105 for violations of the provisions of this ordinance.

Surcharges for the treatment of discharges shall be determined as follows:

- i. A basic sewer charge of two hundred fifty dollars (\$250.00) per million gallons times the monthly volume discharged in millions of gallons.
- ii. A BOD surcharge of one dollar (\$1.00) per million gallons times the difference between the BOD expressed in milligrams per liter, and three hundred (300) milligrams per liter; all multiplied times the monthly volume discharged expressed in millions of gallons.
- iii. A TSS surcharge of one dollar (\$1.00) per million gallons times the difference between the TSS expressed in milligrams per liter, and four hundred (400) milligrams per liter; all multiplied times the monthly volume discharged in millions of gallons.
- iv. The basic sewer charge, BOD, and TSS surcharges will be reviewed at periodic intervals as determined by the director. Changes in the aforementioned surcharges shall be authorized by resolution of the city council and shall be binding on all city agreements for the treatment of industrial wastes.

(c) *Gender*.



As used in this Chapter, whenever the context so indicates, the masculine, feminine, or neuter gender and the singular or plural number, shall be deemed to include the others.

*(d) Headings.*

The headings above the various provisions of this Chapter have been included only in order to make it easier to locate the subject covered by each provision and are not to be used in construing the said provisions.

*(e) Amendments of Statutes.*

Reference made to any State or Federal statutes or to any local ordinances includes and is intended to refer to those statutes and/or ordinances as they presently exist or as they may hereafter be amended to read.

**Sec. 38-108. Effective date.**

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

**Sec. 38-109 - 38-125. Reserved.**