

ORDINANCE NO. 2977

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, DELETING THE EXISTING CHAPTER 16, ARTICLE III, DIVISION 2 OF THE CITY CODE AND ADOPTING A NEW CHAPTER 16, ARTICLE III, DIVISION 2, PROVIDING REGULATIONS FOR THE DISPOSAL OF SEWAGE AND THE USE OF PUBLIC SEWERS; REGULATING THE DISCHARGE OF INDUSTRIAL WASTES INTO THE SANITARY SEWER OF THE CITY; REGULATING UNSEWERED AND MISCELLANEOUS DISCHARGES; PROVIDING FOR A PERMIT SYSTEM WITH DENIAL, SUSPENSION, REVOCATION AND AN APPEALS PROCESS; PROVIDING A PENALTY CLAUSE, A REPEALING CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City of Mesquite provides facilities for the collection and treatment of wastewater to promote the health, safety and convenience of its citizens and for the safeguarding of water resources common to all; and

WHEREAS, the City must provide its facilities in compliance with the Federal Water Pollution Control Act, the Texas Natural Resource Conservation Commission Regulations and other federal, state and local laws; and

WHEREAS, protection of the quality of the effluent and proper operation of wastewater collection and treatment facilities and quality of effluent may require either the exclusion, pretreatment, or controlled discharge at point of origin of certain types of quantities of industrial wastes; and

WHEREAS, it is the obligation of the producers of industrial waste to defray the costs of the wastewater treatment services required of and provided by the City in an equitable manner and, insofar as it is practicable in proportion to benefits derived;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION A. That the existing Chapter 16, Article III, Division 2, is hereby repealed and a new Chapter 16, Article III, Division 2, of the City Code is adopted to read as follows. All other provisions of said chapter and code to remain in full force and effect.

SECTION 1: DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of the terms and phrases used in this Ordinance shall be as follows:

ACT - The Federal Water Pollution Control Act, Public Law 92-500, known as the Clean Water Act (CWA), as amended, 33 U.S.C. 1251, et seq.

ADMINISTRATOR - The EPA Region VI Regional Administrator.

ALTERNATE CITY - (For the purposes of this Article) Refers to any city, other than Mesquite, receiving and treating wastewater originating from the City of Mesquite.

**APPROVAL AUTHORITY** - The Director in a National Pollutant Discharge Elimination System (NPDES) State with an approved State pretreatment program and the appropriate Regional Administrator in a non-NPDES State or NPDES State without an approved State pretreatment program.

**B.O.D. (Biochemical Oxygen Demand)** - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at 20 degrees Celsius (20°C), expressed in mg/L. The laboratory determination shall be made in accordance with the procedures set forth in 40 CFR 136.

**BUILDING DRAIN** - 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 to the building sewer, which begins three (3) feet outside the inner face of the building wall.

**BUILDING SEWER** - The extension from the building drain to the sewer lateral at the property line or other lawful place of disposal (also called house lateral or house connection).

**BYPASS** - Means the intentional diversion of wastestreams from any portion of an Industrial User's treatment facility.

**CATEGORICAL STANDARDS** - The National Categorical Pretreatment Standards found in Chapter 40 of the Code of Federal Regulations (CFR), Parts 405 - 471 and amendments thereof, or pretreatment standards developed under 33 U.S.C. 1317 of the Act.

**CITY** - (For the purposes of this Article) The City of Mesquite, Texas, and/or the City Manager or their duly authorized representative.

**C.O.D. (Chemical Oxygen Demand)** - The measure of oxygen consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed in mg/L as the amount of oxygen consumed from a chemical oxidant in a specific test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with B.O.D.

**CONTROL AUTHORITY** - Shall mean:

- A) The Owner/Operator of the POTW;
- B) The person designated by the City to be responsible for the Industrial Pretreatment Program or its duly authorized representative.

**CONTROL MANHOLE** - a manhole giving access to a building sewer point before the building sewer discharges into the public sewer.

**DAILY DISCHARGE** - The discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents a calendar day for purposes of sampling.

**DAILY MAXIMUM** - the highest allowable "daily discharge" during a calendar month.

**DIRECTOR** - The chief administrative officer of a State or Interstate water pollution control agency with an NPDES permit program approved pursuant to section 402(b) of the Act and an approved State pretreatment program.

**DISPOSAL** - The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or semi-solid waste (i.e., grease trap waste, grit trap wastes, and/or septage) into or on any land or water so that such waste or any

Ordinance No. 2077

Page 3

constituent thereof may enter the environment or be emitted into the air or discharged into any water, including, but not limited to, ground waters.

**DOMESTIC SEWAGE** - The water-borne wastes normally discharging into the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories and institutions, free of storm water and industrial wastes.

**ENVIRONMENTAL OFFICER** - The City Manager of the City or his duly authorized representative.

**EPA** (Environmental Protection Agency) - The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the Administrator or other duly authorized officials of said agency.

**FLOW-PROPORTIONED COMPOSITE SAMPLE** - Shall mean a sample collected either as a constant sample volume at time intervals proportional to stream flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant time interval between the aliquots.

**GARBAGE** - Animal and vegetable wastes and residue from preparation, cooking, and dispensing of food; and from handling, processing, storage, and sale of food products and produce.

**GRAB SAMPLE** - An individual sample collected over a period of time not exceeding 15 minutes.

**GREASE TRAP** - A water-tight receptacle designed and constructed to intercept and prevent the passage of greasy, fatty liquid, semiliquid, and/or solid wastes into the sanitary sewer system to which the receptacle is directly or indirectly connected.

**GREASE TRAP WASTE** - Any greasy, fatty liquid, semi-liquid, and/or solid wastes removed by a grease trap.

**GRIT/SAND TRAP** - A water-tight receptacle designed and constructed to intercept and prevent the passage of sand, grit and other heavy solids into the sanitary sewer system to which the receptacle is directly or indirectly connected.

**GRIT TRAP WASTE** - Any sand, grit and/or other heavy solids removed from a grit trap.

**HAZARDOUS WASTE** - Any liquid, semi-liquid or solid waste (or combination of wastes), which because of its quantity, concentration, physical, chemical or infectious characteristics may:

- A) have any of the following characteristics: toxic, corrosive, an irritant, a strong sensitizer, flammable or combustible, explosive, or otherwise capable of causing substantial personal injury or illness;
- B) pose a substantial hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise improperly managed, and is identified or listed as a hazardous waste as defined by the Texas Solid Waste Disposal Act or defined under 40 CFR Part 261.3.

**HOLDING TANK WASTE** - Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

**INDIRECT DISCHARGE or DISCHARGE** - The introduction of pollutants into a POTW from any non-domestic source regulated under section 307 (b), (c) or (d) of the Act.

**INDUSTRIAL USER or USER** - Source of indirect discharge.

**INDUSTRIAL USER WASTEWATER DISCHARGE PERMIT** - A Permit required of an industrial user to discharge waste into any sewer system under the jurisdiction of the City.

**INDUSTRIAL USER WASTEWATER SURCHARGE** - The additional charge made on those persons or industries who discharge industrial wastes into the sewer system which are amenable to treatment by the POTW treatment processes, but which exceed "normal" strength sewage.

**INDUSTRIAL WASTE** - The water-borne solids, liquids, or gaseous wastes resulting from and discharged, permitted to flow or escaping from any industrial, manufacturing or food processing operation or process, or from the development of any natural resources, or any mixture of these with water or domestic sewage as distinct from normal domestic sewage.

**INTERFERENCE** - A discharge which, either alone or in conjunction with a discharge or discharges from other sources, both:

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

**LIQUID WASTE** - Water-borne solids, liquids, and gaseous substances derived from a grease trap, grit trap, chemical/portable toilet and/or septic tank and described as grease trap waste, grit trap waste or septage.

**MILLIGRAMS PER LITER (mg/L)** - A weight to volume ratio; the milligrams per liter value multiplied by the factor 8.34 is equivalent to pounds per million gallons of water.

**MONTHLY AVERAGE** - The highest allowable average of "daily discharge(s)" over a calendar month, calculated as the sum of all "daily discharge(s)" measured during a calendar month divided by the number of "daily discharge(s)" measured during that month.

**NATIONAL CATEGORICAL PRETREATMENT STANDARD** - Standard specifying the quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW by existing or new Industrial Users in specific industrial subcategories established as separate regulations under the appropriate subpart of 40 CFR chapter I, subchapter N. These standards, unless specifically noted otherwise, shall be in addition to the general prohibitions established in 40 CFR 403.5.

**NATIONAL PRETREATMENT STANDARD, PRETREATMENT STANDARD or STANDARD** - 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 40 CFR 403.5.

**NEW SOURCE** - 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

Ordinance No. 2977

Page 5

Section 307 (c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that Section, provided that:

- A) The building, structure, facility or installation is constructed at a site at which no other source is located; or
- B) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- C) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same type of activity as the existing source will be considered.

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 (B) and (C) above but otherwise alters, replaces, or adds to the existing process or production equipment. Construction of a new source as defined has commenced if the owner or operator has:

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

**NORMAL DOMESTIC SEWAGE** - The "normal" sewage for the City, for which the average concentration of total suspended solids is not more than 250 mg/L and B.O.D. is no more than 250 mg/L. Industrial wastes and storm water are excluded from this term.

**OVERLOAD** - The imposition of organic or hydraulic loading on a treatment facility in excess of its engineered or design capacity.

**OWNER** - Any person who owns a facility or any portion of a facility.

**PASS THROUGH** - a discharge which exits the POTW into waters of the United States in quantities or concentration which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

**POTW (Publicly Owned Treatment Works)** - A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes lift stations, sewers, pipes and other conveyances only if they convey wastewater to a treatment plant.

**PPM (Parts Per Million)** - A weight to weight ratio; the parts per million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water.

**PERSON** - 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.

**pH** - The logarithm (base 10) of the reciprocal of the hydrogen ion concentration.

**POLLUTANT** - Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

**POLLUTED WATER** - Any water, liquid or gaseous wastes containing any of the following:

- A) soluble or insoluble substances of organic or inorganic nature; or
- B) settleable solids that may form sludge deposits; or
- C) grease and oils; or
- D) floating solids that may cause unsightly appearance or color;
- E) substances that would impart any taste or odor to the receiving stream; or
- F) toxic or poisonous substances.

**PRETREATMENT REQUIREMENTS** - Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

**PRETREATMENT OR TREATMENT** - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or by other means, except as prohibited by 40 Code of Federal Regulations 403.6 (d).

**PRIORITY POLLUTANT** - A pollutant found in Table II or Table III of 40 CFR 122, Appendix D.

**PROPERLY SHREDDED GARBAGE** - The wastes from the preparation, cooking and dispensing of foods that have been shredded to such a degree that all particles shall be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (0.5) inch in any dimension.

**RESPONSIBLE CORPORATE OFFICER** - Shall mean:

- A) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
- B) the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

**SANITARY SEWER** - A public sewer that conveys domestic wastewater or industrial wastes or a combination of both, and into which storm, surface, groundwaters and other unpolluted waters are not intentionally passed.

**SEPTAGE** - Wastes removed from a portable toilet, chemical toilet or septic tank.

**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.

**SEWAGE SERVICE CHARGE** - The charge made on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal sewage.

**SEWAGE WORKS/SYSTEM** - All facilities for collection, pumping, treating and disposing of sewage and industrial wastes and would include sewage, as well as the sewage treatment facilities.

**SEWER** - A pipe or conduit for carrying sanitary sewage.

**SIC (Standard Industrial Classification)** - A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, or the latest edition.

**SIGNIFICANT INDUSTRIAL USER (SIU)** -

A) Except as provided in part B the term shall mean:

- 1) All industrial users subject to Categorical Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and
- 2) Any other industrial user that: discharges 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority as defined in 40 CFR 403.12 (a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8 (f)(6)).

B) Upon finding that an industrial user meeting the criteria in part A (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority (as defined in 40 CFR 403.12 (a)) may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8 (f)(6), determine that such industrial user is not a significant industrial user.

**SLUG DISCHARGE** - Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, and/or a discharge which violates any specific prohibitions listed in 40 CFR 403.5 (b), and/or could significantly disrupt a POTW's system, and/or threaten human health and safety, and/or could potentially result in violations of the POTW's NPDES Permit or sludge requirements.

**SPILL** - The accidental or intentional loss or unauthorized discharge of any waste or raw material.

**STORM SEWER OR STORM DRAIN** - A sewer which carries storm and surface waters and drainage but excludes sewage and polluted industrial wastes.

**SURCHARGE** - The charge in addition to the sewage service charge which is made on those persons whose wastes are greater in strength than the concentration values established as representative of normal domestic sewage.

**SUSPENDED SOLIDS** - Solids that either float on the surface of, or are in suspension of water, sewage, or other liquids, and which are removable by laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in 40 CFR 136.

**TIME COMPOSITE SAMPLE** - Shall mean a sample composed of discrete sample aliquots collected in a single reservoir at constant time intervals irrespective of flow.

**TNRCC** - Texas Natural Resource Conservation Commission, or its successor agencies.

**TO DISCHARGE** - To deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit or suffer any of these acts or omissions.

**TOXIC POLLUTANT OR TOXIC SUBSTANCE** - Any substance whether gaseous, liquid or solid which, when discharged to the sewer system in sufficient concentrations, as determined by the Environmental Officer, may be hazardous to sewer maintenance and personnel, tend to interfere with any wastewater treatment process, or to constitute a hazard to human beings or animals, or to inhibit aquatic life, or to create a hazard to recreation in the receiving waters of the effluent from a wastewater treatment plant; or any pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA under the provision of the Clean Water Act 307 (a) or other Acts.

**TRAP** - A device designed to skim, settle, or otherwise remove oil, grease, sand, flammable wastes or other harmful substances.

**UPSET** - Means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the control of the Industrial User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

**USER** - Any person who contributes, causes or permits the contribution of wastewater into the City's sewer system.

**WASTE** - Rejected, unutilized, or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural or industrial activities.

**WASTEWATER** - The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with stormwater which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

**WATERCOURSE** - A channel in which a flow of water occurs, either continuously or intermittently.

## SECTION 2: PROHIBITED DISCHARGES

- A) No person may introduce into a POTW any pollutant(s) which may pass through or interfere. Also prohibited are any substances that have an adverse effect on the environment, or may endanger life, health or property, or constitute a public nuisance.



## B) Substances specifically prohibited from being discharged into the sewage system are as follows:

- 1) Any liquids, solids or gases, including but not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides or any other substances which are a fire or other hazard to the system, which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fires, explosions, or be injurious in any other way to the facilities or operation of the sewage system.
- 2) Any substance which creates a fire or explosion hazard in the sewage system, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21.
- 3) Any wastewater having a pH less than five point zero (5.0), greater than ten point five (10.5), or any wastewater having any other corrosive property capable of causing damage or hazard to the sewage system or any person.
- 4) Any wastewater containing 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 or safety problems.
- 5) Any liquid or vapor having a temperature higher than 150°F (65°C); or exhibiting heat in amounts which will inhibit biological activity in the POTW causing an interference; or, in any case, exhibiting heat in such quantities that the temperature at the POTW treatment plant exceeds 40 degrees Centigrade (104 degrees Fahrenheit).
- 6) Any pollutant(s), including oxygen demanding pollutants (COD, etc.) and total dissolved solids, released in a Discharge at a flow rate and/or pollutant concentration which will cause Pass Through or Interference at the POTW or which will cause the POTW to be in non-compliance with any Federal or State sludge use or disposal criteria, guidelines or regulations.
- 7) Any free or emulsified fats, waxes, greases or oils containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (0 and 65 degrees Celsius); or any combination of free or emulsified fats, waxes, greases or oils, if, in the opinion of the Control Authority, it appears probable that such wastes:
  - a) can deposit grease or oil in the sewer system in such a manner as to clog the sewers;
  - b) can overload skimming and grease handling equipment;
  - c) are not amenable to bacterial action and will therefore pass to the receiving water without being affected by normal sewage treatment processes;
  - d) can have deleterious effects on the treatment process due to excessive quantities.
- 8) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- 9) Solid or liquid substances which may cause obstruction to the flow in sewers or other interference with the proper operation of the wastewater treatment facilities such as, but not limited to: ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, slops, chemical residues, paint residues, bulk solids or waste paper.
- 10) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other substances are sufficient to prevent entry into the sewer system for maintenance and repair.

- 11) Wastewater containing COD in concentrations which are not amenable to treatment, or any other substance which is determined by the Environmental Officer and/or POTW to be not amenable to treatment.
- 12) Any trucked or hauled pollutants, except at discharge points designated by the City and the Control Authority.
- 13) Pollutant(s) which causes:
- excessive discoloration;
  - high hydrogen sulfide content;
  - unusual taste or odor-producing substances.
- C) In cases where, and in the opinion of the Environmental Officer and/or POTW, the character of the sewage from any manufacturer or industrial plant building or other premises is such that it will damage the system, or cannot be treated satisfactorily in the system, the Environmental Officer shall have the right to require such user to dispose of such waste otherwise and prevent it from entering the sewage system.
- D) Unusual flow and concentration of any of the above shall be pretreated to a concentration acceptable to the City, if such wastes can:
- cause damage to sewer system;
  - impair treatment processes;
  - incur treatment cost exceeding those of normal sewage;
  - render the water unfit for stream disposal or industrial use;
  - create a public nuisance.

### SECTION 3: HAZARDOUS METALS AND CHEMICAL OR TOXIC SUBSTANCES

- A) It shall be unlawful to discharge into the sewer system, any metals, chemicals or toxic substances in excess of the following concentration limits:
- The following heavy metals and toxic materials in the form of compounds or elements in solution or suspension in concentrations exceeding these limits:

<u>PARAMETER</u>	<u>MONTHLY AVERAGE LIMIT IN mg/L</u>
Arsenic (Total)	4.81
Cadmium (Total)	1.41
Chromium (Total)	8.70
Copper (Total)	9.74
Cyanide (Total)	1.12
Lead (Total)	3.35
Mercury (Total)	0.002
Nickel (Total)	13.39
Selenium (Total)	0.89
Silver (Total)	0.58
Zinc (Total)	4.14

2) All other priority pollutants found in the POTW influent at a concentration at or above 0.1 mg/L and all Numerical Aquatic Life Criteria as defined by the TNRCC including, but not limited to the following, shall be excluded from the wastewater system unless a Permit specifying the condition of pretreatment, concentration, volumes, etc., is obtained from the City:

- |                       |                       |
|-----------------------|-----------------------|
| Aldrin                | Malathion             |
| Aluminum              | Methoxychlor          |
| Carbaryl              | Mirex                 |
| Chlordane             | PCB (total)           |
| Chlorpyrifos          | Parathion             |
| DDT                   | Phenanthrene          |
| Demeton               | Pentachlorophenol     |
| Dieldron              | Selenium              |
| Endosulfan            | Silver (free ion)     |
| Guthion               | Toxaphene             |
| Heptachlor            | Tributyltin           |
| Hexachlorocyclohexane | 2-4-5-Trichlorophenol |

- 3) Any radioactive wastes or isotopes without prior written permission from the Environmental Officer.
- B) Except where expressly authorized to do so by an applicable Pretreatment Standard or Requirement, no Industrial User shall ever increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard or requirement. The Control Authority may impose mass limitations on Industrial Users which are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases where the imposition of mass limitations is appropriate.
- C) Upon the promulgation of National Categorical Pretreatment Standards for a particular industrial subcategory, the Federal Pretreatment Standard, if more stringent than specific limitations imposed under this Ordinance for industrial users subject to the National Standard, shall supersede the limitations imposed under this Ordinance.
- D) If an industrial user within the City discharges industrial wastewater ultimately received and treated by a POTW owned and operated by an Alternate City pursuant to a wholesale wastewater contract or a reciprocal agreement with an Alternate City, the industrial user is subject to the following additional rules:
1. If the POTW owned and operated by the Alternate City has more stringent discharge limits than those prescribed by this section because the United States Environmental Protection Agency requires them as part of the Alternate City's wastewater pretreatment program, these more stringent discharge limits shall prevail.
  2. The Control Authority is authorized to issue a discharge permit reflecting the more stringent limits to an affected industrial user to insure notice of and compliance with the more stringent discharge limits. If the industrial user already has a discharge permit, the Control Authority may amend the permit to apply and enforce the more stringent limits. An industrial user shall submit an expected compliance date and installation schedule if the more stringent discharge limits necessitate technological adjustments to discharge facilities or plant processes.
  3. If the Control Authority chooses not to issue or amend a permit under Subsection (D)(2), the Control Authority shall notify the industrial user in writing of the more stringent discharge limits and their effective date. Regardless of whether or not a permit is issued or amended, an industrial user shall be given a reasonable opportunity to comply with the more stringent discharge limits.

4. The more stringent discharge limits cease to apply upon termination of:
- The Alternate City's wholesale wastewater contract,
  - upon modification or elimination of the limits by the Alternate City or the United States Environmental Protection Agency,
  - cessation of discharge to the Alternate City's POTW.

The Control Authority shall take the appropriate action to notify the affected industrial user of an occurrence under this subsection (D)(4).

- E) Where industrial users combine waste streams prior to treatment, compliance with an applicable categorical standard will be determined either prior to combining the waste streams or following treatment of the combined wastestream (by applying the Combined Wastestream formula found in 40 CFR 403.6 (e)).
- F) If any person discharges a substance into the City's sewer system in violation of this Section, the Environmental Officer may terminate the service of sewer and/or water to the premises from which the substance was discharged.

#### SECTION 4: GARBAGE

- A) No person shall discharge garbage into the sewer system unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in the sewer system. Particles greater than one-half (1/2) inch in any dimension are prohibited.
- B) The City is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater.

#### SECTION 5: DISCHARGES REQUIRING TRAPS

- A) Discharges requiring a trap include any non-residential establishment discharging:
- Grease or water containing grease;
  - Oil;
  - Sand;
  - Flammable wastes, or;
  - Other harmful substances.
- B) Any person responsible for discharges requiring a trap shall at their own expense and as required by the Environmental Officer:
- Provide equipment and facilities of a type and capacity approved by the City.
  - Locate the trap in a manner that provides ready and easy accessibility for cleaning and inspection.
  - Maintain the trap in effective and operating condition.

#### SECTION 6: COMPLIANCE WITH OTHER AUTHORITIES

- A) COMPLIANCE WITH FEDERAL AUTHORITY

Industrial Users within the jurisdiction of this Ordinance shall comply with all National Categorical Pretreatment Regulations and with those National Categorical Pretreatment Standards applicable to each as specified in 40 CFR Subchapter N, Parts 405 - 471.

**B) COMPLIANCE WITH STATE AUTHORITY**

Industrial Users within the jurisdiction of this Ordinance shall comply with applicable sections of Chapter 26 of the Texas Water Code.

**SECTION 7: INDUSTRIAL USER WASTEWATER DISCHARGE PERMIT REQUIREMENTS**

- A) All nondomestic users must notify the Environmental Officer of the nature and characteristics of their wastewater prior to commencing their discharge. The Environmental Officer is authorized to prepare a form for this purpose.
- B) It shall be unlawful for significant industrial users to discharge wastewater, whether directly or indirectly, into the City's sanitary sewer system without first obtaining an industrial user pretreatment permit from the City. Any violation of the terms and conditions of an industrial user wastewater permit shall be deemed a violation of this article. Obtaining an industrial user wastewater discharge permit does not relieve a permittee of its obligation to obtain other permits required by Federal, State, or local law.
- C) The Environmental Officer may require that other industrial users, including liquid waste haulers, obtain industrial user wastewater discharge permits as necessary to carry out the purposes of this article.
- D) All existing significant users connected to or contributing to the POTW shall obtain a wastewater discharge permit within one hundred eighty days after the effective date of this chapter. The application must be submitted to the Control Authority within ninety days after the effective date of this chapter.
- E) New Connections: Any significant industrial user proposing to begin or recommence discharging nondomestic wastes into the sanitary sewer system must obtain a wastewater discharge permit prior to beginning or recommencing such discharge. For Categorical Industrial Users, a Baseline Monitoring Report (see Section 8) will be used as an application for this permit and must be filed at least ninety (90) days prior to commencement of discharge. For Non-categorical Industrial Users, a permit application must be filed in accordance with Section 13.
- F) Reapplication: Once permitted, the Industrial User has the duty to reapply if the permittee wishes to continue an activity regulated by the permit after the expiration date of the permit. The Industrial User must submit an application for a new permit at least ninety (90) days before the expiration of the permit in accordance with Section 13. The application form may be obtained from the Control Authority.

**SECTION 8: BASELINE MONITORING REPORT**

Within 180 days after the effective date of a categorical Pretreatment Standard, or 180 days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing Industrial Users subject to such Categorical Pretreatment Standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the Control Authority a report which contains the information listed in paragraphs A through G below. Where reports containing this information have already been submitted to the Director or the Regional Administrator in compliance with the requirement of 40 CFR 128.140(b) (1977), the Industrial User will not be required to submit this information again. At least 90 days prior to commencement of discharge, New Sources, and sources that become Industrial Users subsequent to the

promulgation of an applicable categorical standard, shall be required to submit to the Control Authority a report which contains the information listed in paragraphs A through E below. New sources shall also be required to include this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New Sources shall give estimates of the information requested in paragraphs D and E.

- A) **Identifying Information:** The User shall submit the name and address of the facility including the name of the operators and owners;
- B) **Permits:** The User shall submit a list of any environmental control permits held by or for the facility;
- C) **Description of Operations:** The User shall submit a brief description of the nature, average rate of production, and the Standard Industrial Classification of the operation(s) carried out by such Industrial User. This description should include a schematic process diagram which indicates points of Discharge to the POTW from the regulated processes.
- D) **Flow Measurement:** The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
  - 1) Regulated process streams; and
  - 2) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e)

The Control Authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

- E) **Measurement of pollutants:**
  - 1) The User shall identify the Pretreatment Standards applicable to each regulated process;
  - 2) In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the Standard or Control Authority) of regulated pollutants in the Discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations;
  - 3) A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The Control Authority may waive flow-proportional composite sampling for any Industrial User that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the User demonstrates that this will provide a representative sample of the effluent being discharged.
  - 4) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this section.
  - 5) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority.

- 6) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures suggested by the POTW or other parties, approved by the Administrator.
- 7) The Control Authority may allow the submission of a baseline monitoring report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
- 8) The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.
- F) Certification: A statement, reviewed by an authorized representative of the Industrial User (as defined in Section 15), and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the Industrial User to meet the Pretreatment Standards and Requirements; and
- G) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards; the shortest schedule by which the Industrial User will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.
  - 1) Where the Industrial User's categorical Pretreatment Standard has been modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR 403.13) at the time the User submits the report required by this section, the information required by paragraphs F and G shall pertain to the modified limits.
  - 2) If the categorical Pretreatment Standard is modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR 403.13) after the User submits the report required by this section, any necessary amendments to the information requested by paragraphs F and G of this section shall be submitted by the User to the Control Authority within 60 days after the modified limit is approved.

**SECTION 9: COMPLIANCE SCHEDULE FOR MEETING CATEGORICAL PRETREATMENT STANDARDS**

The following conditions shall apply to the schedule required by Section 8 (G):

- A) The schedule shall contain increments of progress in the form of date for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Industrial User to meet the applicable categorical Pretreatment Standards (e.g., hiring an engineer, completing plans, executing contract for major components, commencing construction, completing construction, etc.).
- B) No increment referred to in Section 9 Paragraph A shall exceed 9 months.

- C) Not later than 14 days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the Control Authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the Control Authority.

#### **SECTION 10: 90 DAY COMPLIANCE REPORT**

Within 90 days following the date for final compliance with applicable categorical Pretreatment Standards or in the case of a New Source following the commencement of the introduction of wastewater into the POTW, any Industrial User subject to Pretreatment Standards and Requirements shall submit to the Control Authority a report containing the information described in Section 8 Paragraphs D, E, and F. For Industrial Users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the User's long term production rate. For all other Industrial Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period.

#### **SECTION 11: PERIODIC REPORTS ON CONTINUED COMPLIANCE**

- A) Any Industrial User subject to a categorical Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Control Authority during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Control Authority or the Approval Authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the Discharge reported in Section 8 Paragraph D except that the Control Authority may require more detailed reporting of flows. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may agree to alter the months during which the above reports are submitted.
- B) Where the Control Authority has imposed mass limitations on Industrial Users as provided for by 40 CFR 403.6(d), the report required by paragraph A above shall indicate the mass of pollutants regulated by Pretreatment Standards in the Discharge from the Industrial User.
- C) For Industrial Users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in 40 CFR 403.6(c), the report required by paragraph A above shall contain a reasonable measure of the User's long term production rate. For all other Industrial Users subject to categorical Pretreatment Standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by paragraph A above shall include the User's actual average production rate for the reporting period.

#### **SECTION 12: REPORTING REQUIREMENTS FOR SIGNIFICANT NONCATEGORICAL INDUSTRIAL USERS**

Significant Noncategorical Industrial Users shall submit to the Control Authority at least once every six month (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the Part 136 sampling and analytical techniques



are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the Administrator. This sampling and analysis may be performed by the Control Authority in lieu of the significant noncategorical industrial user. Where the Control Authority collects all the information required for the report, the noncategorical significant industrial users will not be required to submit the report.

### SECTION 13: PERMIT APPLICATION

- A) Significant industrial users required to obtain an Industrial Wastewater Discharge Permit shall complete and file with the Environmental Officer, an application upon a form provided by the City. A permit fee shall accompany the application. In support of the application, the significant industrial user shall submit the following information:
- 1) Identifying Information: The User shall submit the name and address of the facility including the name of the operators and owners;
  - 2) Permits: The User shall submit a list of any environmental control permits held by or for the facility;
  - 3) Description of Operations: The User shall submit a brief description of the nature, average rate of production, and the Standard Industrial Classification of the operation(s) carried out by such Industrial User. This description should include a schematic process diagram which indicates points of Discharge to the POTW from the regulated processes.
  - 4) Flow Measurement: The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
    - a) Regulated process streams; and
    - b) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e)The Control Authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.
  - 5) Wastewater constituents and characteristics including but not limited to those mentioned in this Ordinance, and any Federal, State or local standards. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Sec 304 (g) of the Act; in 40 CFR, Part 136, as amended; and 40 CFR, Part 403.12 (b) (5), as amended.
  - 6) Certification: A statement, reviewed by an authorized representative of the Industrial User (as defined in Section 15), and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the Industrial User to meet the Pretreatment Standards and Requirements; and
  - 7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards; the shortest schedule by which the Industrial User will provide such additional pretreatment

and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

The following conditions shall apply to the schedule required by this paragraph:

- a) The schedule shall contain increments of progress in the form of date for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Industrial User to meet the applicable Pretreatment Standards (e.g., hiring an engineer, completing plans, executing contract for major components, commencing construction, completing construction, etc.).
- b) No increment referred to in Section 13 Paragraph A(7)(a) shall exceed 9 months.

Not later than 14 days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the Control Authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the Control Authority.

- 8) Any other information as deemed necessary by the City to evaluate the permit application.
- B) The Environmental Officer shall issue a permit if he determines that pretreatment facilities are adequate for efficient treatment and that discharged wastes will comply with the requirements of Section 2 and Section 3 and State or Federal Pretreatment Standards, if applicable.

#### SECTION 14: PERMIT CONDITIONS

- A) Industrial Wastewater Discharge Permits shall be expressly subject to all provisions of this Article and all other applicable regulations, user charges and fees established by the City. Permits shall contain but not be limited to, the following:
- 1) Statement of duration (in no case more than five years);
  - 2) Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
  - 3) Effluent limits based on applicable general pretreatment standards in 40 CFR Part 403, categorical pretreatment standards, local limits, and State and local law;
  - 4) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards, local limits, and State and local law;
  - 5) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.

#### SECTION 15: SIGNATORY REQUIREMENTS FOR INDUSTRIAL USER REPORTS

The reports required under Sections 8, 10, 11 and 12 shall include the certification below:

"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 ensure 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 information, the information submitted is, to the best of my knowledge 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."

and shall be signed as follows:

- 1) By a responsible corporate officer, if the Industrial User submitting the reports is a corporation.
- 2) By a general partner or proprietor if the Industrial User submitting the reports is a partnership or sole proprietorship, respectively.
- 3) The principal executive officer or Environmental Officer having responsibility for the overall operation of the discharging facility if the Industrial User submitting the reports is a Federal, State, or local governmental entity, or their agents.
- 4) By a duly authorized representative of the individual designated in paragraph (1), (2), or (3) of this section if:
  - a) The authorization is made in writing by the individual described in paragraph (1), (2), or (3).
  - b) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility for environmental matters for the company; and
  - c) The written authorization is submitted to the City.
- 5) If an authorization under paragraph (4) 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 authorization satisfying the requirements of paragraph (4) of this section must be submitted to the City prior to or together with any reports to be signed by an authorized representative.

**SECTION 16: PERMIT ISSUANCE PROCESS**

- A) Permit Duration: Permits shall be issued for a specified period, not to exceed five (5) years. A permit may be issued for a period less than five (5) years, at the discretion of the Environmental Officer.
- B) Permit Appeals: The Environmental Officer will provide all interested persons with notice of final permit decisions. Upon notice by the Environmental Officer, any person, including the industrial user, may petition to appeal the terms of the permit within thirty (30) days of the notice to the Environmental Appeals Committee.
  - 1) Failure to submit a timely petition for review shall be deemed to be a waiver of the appeal.
  - 2) In its petition, the appealing party must indicate the permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to be placed in the permit.
  - 3) The effectiveness of the permit shall not be stayed pending a reconsideration by the Committee. If, after considering the petition and any arguments put forth by the Environmental Officer, the Committee

determines that reconsideration is proper, it shall remand the permit back to the Environmental Officer for reissuance. Those permit provisions being reconsidered by the Environmental Officer shall be stayed pending reissuance.

- 4) An Environmental Appeals Committee decision not to reconsider a final permit shall be considered final administrative action for purposes of judicial review.
- C) Permit Action: The Control Authority has the power to deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by an Industrial User where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause the POTW to violate its NPDES permit. The Environmental Officer may modify the permit for good cause including but not limited to, the following:
- 1) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements.
  - 2) Material or substantial alterations or additions to the discharger's operation processes, or discharge volume or character which were not considered in drafting the effective permit.
  - 3) A change in any condition in whether the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
  - 4) Information indicating that the permitted discharge poses a threat to the Control Authority's collection and treatment systems, POTW personnel or the receiving waters.
  - 5) Violation of any terms or conditions of the permit.
  - 6) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting.
  - 7) Revision of or a grant of variance from such categorical standards pursuant to 40 CFR 403.13.
  - 8) To correct typographical or other errors in the permit.
  - 9) To reflect transfer of the facility ownership and/or operation to a new owner/operator.
  - 10) Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

- D) Permit Transfer: Permits may be reassigned or transferred to a new owner and/or operator with prior approval of the Environmental Officer:
- 1) The permittee must give at least thirty (30) days advanced notice to the Environmental Officer.
  - 2) The notice must include a written certification by the new owner which:
    - a) States that the new owner has no immediate intent to change the facility's operations and processes
    - b) Identifies the specific date on which the transfer is to occur

- c) Acknowledges full responsibility for complying with the existing permit.
- E) Permit Termination: Pretreatment permits may be terminated for reasons including but not limited to, the following:
- 1) Falsifying self-monitoring reports.
  - 2) Tampering with monitoring equipment.
  - 3) Refusing to allow timely access to the facility premises and records.
  - 4) Failure to meet effluent limitations.
  - 5) Failure to pay fines.
  - 6) Failure to pay sewer charges.
  - 7) Failure to meet compliance schedules.
- F) Permit Reissuance: The user shall apply for permit reissuance by submitting a complete permit application a minimum of ninety (90) days prior to the expiration of the user's existing permit.
- G) Continuation of Expired Permits: An expired permit will continue to be effective and enforceable until the permit is reissued if:
- 1) The industrial user has submitted a complete permit application at least ninety (90) days prior to the expiration date of the user's permit.
  - 2) The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the industrial user.

**SECTION 17: GENERAL REPORTING AND RECORD-KEEPING REQUIREMENTS**

- A) If sampling performed by an Industrial User indicates a violation, the user shall notify the Control Authority within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis within 30 days after becoming aware of the violation.
- B) If an Industrial User subject to the reporting requirements of Section 11 or Section 12 monitors any pollutant more frequently than required by the Control Authority, using the procedures as prescribed 40 CFR 403.12(g)(4), the results of this monitoring shall be included in the report.
- C) Any Industrial User subject to the reporting requirements established in this ordinance or the permit shall retain for a minimum of 3 years any records of monitoring activities and results (whether or not such monitoring activities are required by this ordinance or the permit) and shall make available for inspection and copying by the EPA, TNRCC or the POTW. This period of retention shall be extended during the course of any unresolved litigation regarding the Industrial User or the POTW or when requested by the state or the federal government. For all samples, such records shall include but not be limited to:
- 1) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;

- 2) The date analyses were performed;
- 3) Who performed the analyses;
- 4) The analytical techniques/methods used; and
- 5) The results of such analyses.

**SECTION 18: PROCEDURES FOR ABATEMENT OF VIOLATIONS**

- A) Whenever the Environmental Officer has determined that any person has violated any provision of this Ordinance or permit, or that such violation is continuing or reoccurring, he will investigate and respond to such instances of industrial user noncompliance in accordance with the Enforcement Response Plan developed by the City in accordance with 40 CFR 403.8(f)(5). In addition to any other remedy provided for in this Ordinance, the Environmental Officer may issue a notice and order directing that such violation be corrected. Such notice and order shall state:
- 1) The nature of the violation and the provisions of this Ordinance which have been violated.
  - 2) The corrective action that must be taken and the amount of time allowed to correct the violation.
  - 3) That the person receiving the notice or order may appeal to the Environmental Appeals Committee by filing an appeal, in writing, with the Environmental Officer within five (5) days of the service of the notice or order.
  - 4) That failure to comply with the notice or order and failure to file a timely appeal may result in termination of sewer and/or water service.
- B) Any notice and order issued under this Ordinance shall be in writing and served in person or by registered or certified mail on the user of the sewage system or other persons determined to be responsible for such violation.
- C) Any person may appeal the notice and order of the Environmental Officer by filing a written notice of appeal with the Environmental Officer on forms provided by the Environmental Officer. Such notice of appeal shall be filed within five (5) days of service of the order.
- D) If no timely appeal is filed, the Environmental Officer may, if violation is continuing or reoccurring, terminate sewer and/or water service to the person ordered to correct or abate such violation if the violation has not been corrected within the time specified in the order.
- E) The City, after informal notice to the discharger, can immediately and effectively halt or prevent any discharge of pollutants and/or terminate water service when such action is necessary, in the opinion of the Environmental Officer, in order to stop an actual or threatened discharge which presents, or may present, an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference with the treatment processes or causes the POTW to violate its NPDES Permit.

**SECTION 19: ENVIRONMENTAL APPEALS COMMITTEE**

- A) An Environmental Appeals Committee is hereby established and authorized to hear and decide appeals from any order issued by the Environmental Officer pursuant to this Ordinance. The Committee shall be composed of the City Manager, or Assistant City Manager, the Public Works Director and the City Attorney or their designated representative.

- B) The Committee may call and hold hearings, administer oaths, receive evidence at the hearing, issue subpoenas to compel the attendance of witnesses and the production of papers and documents related to the hearing, and make findings of fact and decisions with respect to administering its powers herein.
- C) Upon the hearing, the Committee shall determine if there is a preponderance of evidence to support the Environmental Officer's determination and order. The decision of the Committee shall be in writing and contain findings of fact. If the Committee determines that there is a preponderance of evidence to support the determination and order of the Environmental Officer, the Committee shall, in addition to its decision, issue an order:
  - 1) requiring discontinuance of such violation or condition,
  - 2) requiring compliance with any requirement to correct or prevent any condition or violation, or
  - 3) suspending or revoking any permit issued under this Ordinance.
- D) In any decision issued by the Committee, the order shall specify the time in which the compliance with the order must be taken. A copy of the order shall be delivered to the appellant or person to whom the order is directed in person or sent to him by registered or certified mail.

**SECTION 20: DETERMINING THE CHARACTER AND CONCENTRATION OF WASTEWATER**

- A) The wastewater discharged or deposited into the sewage system shall be subject to periodic inspection and sampling as often as may be deemed necessary by the Environmental Officer. Significant Industrial Users will be inspected and monitored a minimum of once per year. Sampling shall be conducted according to 40 CFR Part 136, reflecting the effect of constituents upon the sewage system and determining the existence of hazards to health, life, limb, and property.
- B) The examination and analysis of the characteristics of waters and wastes shall be:
  - 1) Performed in accordance with procedures established by the Administrator pursuant to section 304(h) of the Act and contained in 40 CFR 136 and amendments thereto or with any other test procedures approved by the Administrator. Sampling shall be performed in accordance with the techniques approved by the Administrator. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, or where the Administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Administrator.
  - 2) Determined from suitable samples taken at the control manhole provided or other control points authorized by the City provided at the expense of the industry.
  - 3) The City may select an independent firm or laboratory to perform sampling and laboratory analyses.
  - 4) The determination of the character and concentration of industrial wastewater shall be made by the Environmental Officer at such times and on such schedules as he may establish.
  - 5) The City may require any person determined to be discharging wastewater in violation of this Ordinance to compensate the City for the costs of sampling, analyses of the discharges and additional Administrative fees until the discharged wastewater is in compliance with this Ordinance.

**SECTION 21: SAMPLING AND ANALYSES FEES**

- A) Each significant industrial user for which the Control Authority has reporting requirements under its National Pollutant Discharge Elimination System permit shall compensate the City for the cost of sampling, laboratory analyses and administration required to monitor wastewater discharges. The Environmental Officer shall determine the number of samples and frequency of sampling necessary to maintain surveillance of discharges.
- B) Each contributing industry or commercial firm for which the City is required to take samples and run laboratory analyses to monitor wastewater discharges shall compensate the City for the cost of sampling and laboratory analyses.
- C) All fees required under this Ordinance shall be invoiced to the contributing industry or commercial firm by the City and shall be payable as indicated on the invoice.

**SECTION 22: INDUSTRIAL WASTEWATER SURCHARGE**

- A) A surcharge may be applied in addition to the monthly sewer service charge for the discharge of above normal strength wastewater to cover the additional costs of treating such wastewater. Such a charge is collected by the City.
- B) The surcharge shall be calculated as follows:

$$C = [B(Bu-250) + S (Su-250)] \times F \times V$$

Where:

- C = surcharge to the user in dollars  
 B = unit cost factor for treating one unit of BOD (per 1,000 gallons)  
 Bu = the tested BOD of the discharge  
 S = unit cost factor for treating one unit of total suspended solids (per 1,000 gallons)  
 Su = the tested total suspended solids of the discharge  
 F = a factor of 8.34 to convert mg/L to pounds/gallon  
 V = monthly billing volume (discharge) in thousand gallons  
 250 = average domestic BOD and total suspended solids (250 mg/L)

**SECTION 23: INSPECTION AND SAMPLING**

- A) Representatives of the City, the U.S. Environmental Protection Agency, the Texas Natural Resource Conservation Commission and the Texas Department of Health, or any successor agency bearing proper credentials and identification, shall be permitted to enter any properties at any reasonable time for the purpose of inspection, observation, measurement, sampling, examination and copying of records, and testing of the sewage system or any wastewater discharged into the sewage system.
- B) The Environmental Officer shall carry out all inspection and monitoring procedures necessary to determine compliance with applicable Pretreatment Standards and requirements.
- C) Anyone acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security and fire protection.

**SECTION 24: CONTROL MANHOLE**



- A) When necessary to monitor wastewater discharged into the sewage system, the Environmental Officer may require an industrial user to install a suitable control manhole in order to adequately sample and measure such wastewater. Installation of meters, equipment and accessories as deemed necessary by the Environmental Officer may also be required.
- B) Required control manholes shall be located to provide ample room in or near the facility to allow accurate sampling and preparation of samples for analyses. The manhole and any required installed equipment shall be maintained by the user at all times in safe and proper operating condition.
- C) Before beginning construction of a control manhole, the user shall submit plans to the Environmental Officer for review and approval to insure compliance with this section. Plans must include any meters or other equipment required to be installed.

**SECTION 25: PRETREATMENT REQUIRED**

- A) Industrial users shall provide necessary wastewater treatment as required to comply with this Ordinance, National Categorical Pretreatment Standards, and any State or Federal pretreatment regulation. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated and maintained at the user's expense. The City can require the development of a compliance schedule by each Industrial User for the installation of technology required to meet applicable Pretreatment Standards and Requirements.
- B) Before beginning construction of pretreatment facilities, the user shall submit detailed plans and operating procedures for the facility to the Environmental Officer for review and approval. The review and approval of such plans and procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this Ordinance.
- C) All Industrial Users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge..
- D) All records relating to compliance with the Pretreatment Standards shall be made available to officials of the City, State, or Environmental Protection Agency upon request.
- E) The determination of the character and concentration of industrial wastewater shall be made by the Environmental Officer at such times and on such schedules as he may establish.

**SECTION 26: NOTICE OF SIGNIFICANT NONCOMPLIANCE**

- A) The City shall publish annually a list of industrial users in significant noncompliance of applicable Pretreatment Standards or other pretreatment requirements during the previous twelve (12) months. The notification shall also summarize any enforcement actions taken against the users during the same period. Said list shall be published in the largest daily newspaper published in the Municipality in which the Control Authority is located.
- B) For purposes of this section; an industrial user is in significant noncompliance if its violation(s) meets one or more of the criteria defined under 40 CFR 403.8(f)(2)(vii).

**SECTION 27 : FALSIFYING INFORMATION**

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance, 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 two thousand dollars (\$2000.00) for each conviction.

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 two thousand dollars (\$2000.00) for each conviction.

#### SECTION 28: BYPASS

- A) Bypass not violating applicable Pretreatment Standards or Requirements. An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Paragraphs B and C, below.
- B) Notice.
- 1) If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, if possible at least ten days before the date of the bypass.
  - 2) An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Control Authority within 24 hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the Industrial 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 Control Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- C) Prohibition of Bypass.
- 1) Bypass is prohibited, and the Control Authority may take enforcement action against an Industrial User for a bypass, unless:
    - a) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
    - b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment down time. 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 preventative maintenance; and
    - c) The Industrial User submitted notices as required under Paragraph B of this Section.
  - 2) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions in Paragraph C(1) of this Section.

#### SECTION 29: SLUG CONTROL PLAN

- A) Each industrial user shall provide protection from slug discharges, as defined in Section 1 of this ordinance. The Control Authority may require the Industrial User to develop and implement a slug control plan. The plan shall contain, at a minimum, the following elements:
- 1) Description of discharge practices, including non-routine batch discharges;
  - 2) Description of stored chemicals;
  - 3) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5, with procedures for follow-up written notification within five days;

- 4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operation, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

**SECTION 30: NOTICE OF POTENTIAL PROBLEMS, INCLUDING SLUG LOADING**

All categorical and non-categorical Industrial Users shall notify the POTW and the city immediately of all discharges that could cause problems to the POTW, including any slug loadings, by the Industrial User.

**SECTION 31: UPSETS**

- A) Effect of an upset. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph B are met.
- B) Conditions necessary for a demonstration of upset. An Industrial User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operation logs, or other relevant evidence that:
  - 1) An Upset occurred and the Industrial User can identify the cause(s) of the Upset;
  - 2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;
  - 3) The Industrial User has submitted the following information to the POTW and Control Authority within 24 hours of becoming aware of the Upset (if this information is provided orally, a written submission must be provided within five days);
    - (a) A description of the Indirect Discharge and the 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;
    - (c) Steps being taken and/or plans to reduce, eliminate and prevent recurrence of the noncompliance.
- C) Burden of proof. In any enforcement proceeding the Industrial User seeking to establish the occurrence of an Upset shall have the burden of proof.
- D) Reviewability of agency consideration of claims of upset. In the usual exercise of prosecutorial discretion, Agency enforcement personnel should review any claims that non-compliance was caused by an Upset. No determinations made in the course of the review constitute final Agency action subject to judicial review. Industrial users will have the opportunity of a judicial determination on any claim of Upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.
- E) User responsibility in case of upset. The Industrial User shall control production or 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.

**SECTION 32: NOTIFICATION OF DISCHARGE OF HAZARDOUS WASTES**

- A) Industrial Users shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months. Industrial Users shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR 403.12(j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12 (b),(d) and (e).
- B) Dischargers are exempt from the requirements of Section 30 paragraph A during a calendar month in which the discharge no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen kilograms of non-acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification.

Subsequent months during which the Industrial User discharges more than such quantities of any hazardous waste do not require additional information.

- C) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the POTW, the EPA Regional Waste Management Division Director and the State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- D) In the case of any notification made under Section 30 of this ordinance, the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

#### SECTION 33: CONFIDENTIAL INFORMATION

- A) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.
- B) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this Ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, State Disposal System permit and/or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Effluent data, as defined in 40 CFR 2.302, will not be considered confidential.

#### SECTION 34: MISCELLANEOUS OFFENSES RELATING TO SEWER SYSTEM

No person other than a regular employee or officer of the City charged with such duties, shall do or aid in doing any of the following acts:

- 1) Opening, closing, lifting or removing the cover of any sanitary sewer manhole or clean-out plug of the City sewer system;
- 2) Interfering with, destroying, impairing, injuring or defacing any property which is a part of or essential to the proper functioning of the City sewer system;
- 3) Covering or concealing from view any sanitary sewer manhole;
- 4) Tapping and/or otherwise connecting into an existing sanitary sewer main which is a part of the City sewer system.

**SECTION 35: DANGEROUS DISCHARGES**

The Control Authority, after informal notice to the discharger, can immediately and effectively halt or prevent any Discharge of pollutants which reasonably appears to present an imminent endangerment to the health or welfare of persons. The Control Authority, after notice to the affected Industrial Users and an opportunity to respond, can halt or prevent any Discharge to the POTW which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW.

**SECTION 36: PENALTIES**

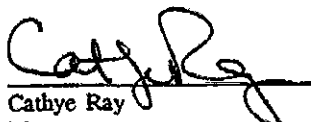
- A) In addition to prohibiting certain conduct by natural persons, it is the intent of this article to hold a corporation or association legally responsible for prohibited conduct performed by an agent acting in behalf of a corporation or association and within the scope of his office or employment.
- B) Any person found to be guilty of violating provisions of this article shall become liable to the City for any expense, loss, or damage occasioned by the City for reason of appropriate clean-up and proper disposal of said waste materials. Additionally, an administrative fee up to one-half (1/2) of assessed clean-up costs may be levied by the City against the guilty person.
- C) Additionally, the City is entitled to pursue all other criminal and civil remedies, including injunctive (judicial) relief to which it is entitled under the authority of statutes and/or other ordinances and/or under applicable state and Federal laws against a person continuing prohibited discharges or violating any other provision of this Ordinance.

**SECTION B.** Any person, operator, or owner who shall violate any provision of this ordinance, or who shall fail to comply with any provision hereof, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed two thousand dollars (\$2,000.00), and each day a violation exists shall constitute a separate offense and shall be punished accordingly.

SECTION D. It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable, and the invalidity or unconstitutionality of any section, clause, provision or portion of this Ordinance shall not affect the validity or constitutionality of any other portion of this Ordinance.

SECTION E. This Ordinance shall become effective immediately upon its passage and publication as required by law.

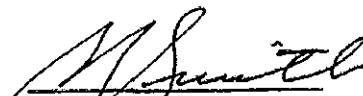
DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 18th day of July, 1994.

  
Cathye Ray  
Mayor

ATTEST:

  
Lynn Prugel  
City Secretary

APPROVED:

  
B.J. Smith  
City Attorney