

ORDINANCE NO. O-2020-0222

AN ORDINANCE OF THE CITY OF ROUND ROCK, TEXAS, REPEALING THE CITY'S EXISTING PRETREATMENT PROGRAM AND REPLACING IT WITH A NEW PRETREATMENT PROGRAM IN ARTICLE IV, CODE OF ORDINANCES (2018 EDITION), CITY OF ROUND ROCK, TEXAS; PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES OR RESOLUTIONS.

WHEREAS, the City of Round Rock, Texas (“City”) currently has a Pretreatment Program as set forth in Chapter 44, Article IV of the Code of Ordinances (2018 Edition), City of Round Rock, Texas.

WHEREAS, a Pretreatment Program is required pursuant to the Clean Water Act and Title 40, Code of Federal Regulations, Part 403; and

WHEREAS, the Texas Commission on Environmental Quality (“TCEQ”) is requiring the City to modify its existing Pretreatment Program due to requirements set forth in the Environmental Protection Agency’s (“EPA’s”) streamlining rule; and

WHEREAS, the City desires to repeal its existing Pretreatment Program and establish a new Pretreatment Program to comply with TCEQ and the EPA's streamlining rule; Now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROUND ROCK,
TEXAS:

1.

That Chapter 44, Article IV of the Code of Ordinances (2018 Edition), City of Round Rock, Texas, is hereby repealed.

11.

That Chapter 44 of the Code of Ordinances (2018 Edition), City of Round Rock, Texas, is hereby amended by adding Article IV which shall read as follows

1 **ARTICLE IV. - PRETREATMENT PROGRAM**

2
3 **Sec. 44-79. - Pretreatment regulations adopted.**

4
5 This article adopts by reference, the applicable regulations of title 40 Code of Federal Regulations,
6 part 403, "General Pretreatment Regulations for Existing and New Sources of Pollution," and other
7 applicable state and federal laws, including but not limited to, the Clean Water Act. These regulations are
8 herein referred to as general pretreatment regulations.
9

10 **Sec. 44-80. - Purpose and applicability.**

11
12 (a) *Purpose.* This article forms the basis of the city's pretreatment program to regulate nondomestic
13 discharges to its sewage collection and treatment facilities and sets forth uniform requirements for
14 Users of the Publicly Owned Treatment Works (POTW). The objectives of this article are:

- 15
16 (1) To prevent the introduction of pollutants into the POTW that would interfere with the
17 operation of its facilities;
18
19 (2) To prevent the introduction of pollutants into the POTW that would pass-through treatment
20 facilities, inadequately treated, into the receiving waters or would otherwise incompatible to
21 the POTW;
22
23 (3) To protect the POTW personnel who may be affected by the wastewater and treatment
24 plant sludge in the course of their employment and the general public;
25
26 (4) To ensure the quality of sludge to allow its use and disposal in compliance with statutes
27 and regulations to improve the opportunity to recycle and reclaim wastewater and sludge;
28
29 (5) To provide for the equitable distribution of the cost of operation, maintenance and
30 improvement to the POTW; and
31
32 (6) To enable the POTW to comply with the Texas Pollutant Discharge Elimination System
33 (TPDES) permit conditions, sludge use and disposal requirements and any other federal or
34 state laws.
35

36 (b) *Applicability.* This article shall be applicable to all nondomestic dischargers to the Brushy Creek
37 Regional Wastewater System.

38 **Sec. 44-81. – Abbreviations and Definitions.**

39 (a) The following abbreviations, when used in this article shall have the designated meanings:

- 40 *BOD* means Biochemical Oxygen Demand.
41 *BMP* means Best Management Practice.
42 *BMR* means Baseline Monitoring Report.
43 *BCRWWS* means Brushy Creek Regional Wastewater System.
44 *CFR* means Code of Federal Regulations.
45 *CIU* means Categorical Industrial User.
46 *COD* means Chemical Oxygen Demand.
47 *EPA* means U.S. Environmental Protection Agency.
48 *Gpd* means gallons per day.
49 *IU* means Industrial User.

1 *Mg/L* means milligrams per liter.

2 *POTW* means Publicly Owned Treatment Works.

3 *RCRA* means Resource Conservation and Recovery Act.

4 *SIC* means Standard Industrial Classification.

5 *SIU* means Significant Industrial User.

6 *SNC* means Significant Noncompliance.

7 *TCEQ* means Texas Commission on Environmental Quality.

8 *TPDES* means Texas Pollutant Discharge Elimination System.

9 *TSS* means Total Suspended Solids.

10 *TTO* means Total Toxic Organics.

11 *USC* means United States Code.

12 (b) The following words and phrases shall have the meanings herein:

13 *Act* or *the Act* means the Federal Water Pollution Control Act, also known as the Clean Water
14 Act, 33 USC 1251 et seq.

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

19 *Approval authority* means the regional executive director of the TCEQ.

20 *Approved test procedures* mean those procedures found at 40 CFR 136 and those alternate
21 procedures approved by the Administrator of the EPA under the provisions of title 40.

22 *Authorized representative of the user* means the person authorized to represent, sign and
23 submit documents in accordance with the following criteria:

24 (1) If the user is a corporation:

25 a. The president, secretary, treasurer, or vice-president of the corporation in charge
26 of a principal business function, or any other person who performs similar policy
27 or decision-making functions for the corporation; or

28 b. The manager of one or more manufacturing, production, or operating facilities,
29 provided the manager: (a) is authorized to make management decision that
30 govern the operation of the regulated facility, including having the explicit or
31 implicit duty of making major capital investment recommendations; (b) initiates
32 and directs other comprehensive measures to assure long-term environmental
33 compliance with environmental laws and regulations; (c) can ensure that the
34 necessary systems are established or actions taken to gather complete and
35 accurate information for individual wastewater discharge permit requirements;
36 and (d) is authorized to sign documents in accordance with corporate
37 procedures.

38 (2) If the user is a partnership, a general partner.

39 (3) If the user is sole proprietorship, a proprietor.

40 (4) If the use is a federal, state, or local government facility, a director or highest official
41 appointed to or designated to oversee the operation and performance of the activities of the
42 government facility, or their designee.

(5) The individuals described in paragraphs (1) through four (4), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the control authority.

BOD means the oxygen required for the biochemical degradation of organic material in five (5) days at 20 degrees Celsius, expressed in mg/L, as determined by approved test procedures.

BMPs mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in section 44-82(d) and 40 CFR 403.5(a)(1) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

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

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

Bypass means the intentional diversion of waste streams from any portion of an IU's treatment facility.

Categorical standard or pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR N (405-471).

Categorical user means a user that is subject to the National Categorical Standards as established by the EPA.

Cease and Desist Order shall mean an administrative order directing an IU to immediately halt illegal or unauthorized discharges.

City means the City of Round Rock, Texas or any authorized personal acting in its behalf.

COD means the measure of the oxygen equivalent of the organic matter content that is susceptible to oxidation by a strong chemical oxidant, expressed in mg/l as determined by approved test procedures.

Compliance order means an administrative order directing a noncompliant industrial user to achieve or restore compliance by a date specified in the order.

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

Consent order means an administrative order embodying a legally enforceable agreement between the control authority and noncompliant IU designed to restore the user to compliance status.

Control authority means the City of Round Rock, Texas.

Control point means point of access to a user's sewer where sewage monitoring can be done.

Cooling Water means the water discharged from any system of condensation, such as air conditioning, cooling, and refrigeration systems.

1 *Daily limit or daily maximum limit* means the maximum allowable discharge of a pollutant over
2 a calendar year of equivalent representative twenty-four (24)-hour period. Where daily maximum
3 limits are expressed in units of mass, and the daily discharge is calculated by multiplying the daily
4 average concentration and total flow volumes in the same twenty-four (24)-hour period by
5 conversion factor to get the desired units. Where daily limits are expressed in terms of a
6 concentration, the daily discharge is the composite sample value, or flow weighted average if
7 more than one discrete sample was collected. Where flow weighting is infeasible, the daily
8 average is the arithmetic average of all samples if analyzed separately, or the same value if
9 samples are composited prior to analysis.

10 *Dilution* means the addition of any material, either liquid or nonliquid, or any other method to
11 attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve
12 compliance with the national categorical standards or local limits set by this section.

13 *Direct discharge* means the discharge of untreated wastewater directly to the waters of the
14 state of Texas.

15 *Domestic sewage* means water-borne materials normally discharged from sanitary
16 conveniences of dwellings, including apartment houses and hotels, office buildings, factories and
17 institutions, free from storm water, utility and process discharges. Normal domestic sewage
18 means normal sewage for the city in which the average daily concentration of BOD and TSS are
19 established at 250 mg/l each, on the basis of the normal contribution of 0.20 pound per capita per
20 day each, and in which the average daily concentration of COD is established at 450 mg/l. It is
21 further expressly provided that for the purpose of this section, any discharge that exceeds the
22 above concentration of BOD, TSS or COD shall be classified as nondomestic and made subject
23 to all regulations pertaining thereto, whether or not such discharge was partially of domestic
24 origin.

25 *Environmental Protection Agency (EPA)* means the U.S. Environmental Agency or, where
26 appropriate, the Regional Water Management Division director or other duly authorized official of
27 said agency.

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

32 *General pretreatment regulations* mean 40 CFR 136, General Pretreatment Regulations for
33 Existing and New Sources of Pollution.

34 *Grab sample* means an individual sample collected without regard to flow in a time not to
35 exceed fifteen minutes.

36 *Headworks* means the location where raw (untreated) sewage is introduced into the sewage
37 treatment facilities.

38 *Indirect discharge or discharge* means the introductions of pollutants into the POTW from any
39 non-domestic source regulated under section 307(b), (c), or (4) of the Act.

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

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

- 45 (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge
46 processes, use or disposal; and
47 (2) Therefore, is a cause of a violation of any requirement of the POTW's permit or of the
48 prevention of sewage sludge use or disposal.

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

4 *May* means mandatory or discretionary.

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

8 *Monthly average limit* means a discharge limit based on the average of the analytical results
9 of all samples for a parameter taken during a calendar month using approved methods for both
10 sampling and analysis.

11 *National categorical standards* mean the pretreatment regulations of title 40 CFR (l)(N), "EPA
12 Effluent Guidelines and Standards."

13 *National Pollution Discharge Elimination System or NPDES permit* means a permit pursuant
14 to section 402 of the Act.

15 *National pretreatment standard, pretreatment standard or standard* means any regulation
16 containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) of
17 the Act.

18 *New source* means the following:

- 19 (1) Any building, structure, facility or installation from which there is or may be a discharge of
20 pollutants, the construction of which commenced after the publication of proposed
21 pretreatment standards under section 307(c) of the Act which will be applicable to such
22 source if such standards are thereafter promulgated in accordance with that section,
23 provided that:
- 24 a. The building, structure, facility or installation is constructed at a site which no
25 other source is located;
 - 26 b. The building, structure, facility or installation totally replaces the process or
27 production equipment that causes the discharge of pollutants at an existing
28 source; or
 - 29 c. The production or wastewater generating processes of the building, structure,
30 facility or installation are substantially independent of an existing source at the
31 same site. In determining whether these are substantially independent, factors
32 such as the extent to which the new facility is integrated with the existing plant,
33 and the extent to which the new facility is engaged in the same general type of
34 activity as the existing source should be considered.
- 35 (2) Construction on a site at which an existing source is located results in a modification rather
36 than a new source if the construction does not create a new building, structure, facility or
37 installation meeting the criteria of subsections (1)(b) and (c) of this definition, but otherwise
38 alters, replaces, or adds to existing process or production equipment.
- 39 (3) Construction of a new source as defined herein has commenced if the owner or operator
40 has:
- 41 a. Begun, or caused to begin as part of a continuous onsite construction program
42 any placement, assembly, or installation of facilities or equipment; or significant
43 site preparation work including clearing, excavation, or removal of existing
44 buildings, structures, or facilities which is necessary for the placement, assembly,
45 or installation of new source facilities or equipment; or
 - 46 b. Entered into a binding contractual obligation for the purchase of facilities or
47 equipment which are intended to be used in its operation within a reasonable
48 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.

Noncategorical user means a user that is not subject to the national categorical standards.

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

Nondomestic sewage means a discharge to the POTW that is not domestic sewage.

Non-process wastestream/flow means sewage that is not classified as domestic or process, such as noncontact cooling water, cooling tower blowdown, air conditioner condensates, and demineralizer blowdown.

Outfall means a discharge of sewage that is expressly identified by the control authority for control and monitoring purposes.

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

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

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

pH means the logarithm (base 10) of the reciprocal of the hydrogen ion concentration; measure of the acidity or alkalinity measured in standard units.

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

POTW means the sewage treatment works owned/operated by the BCRWWS. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of sewage. It includes sewers, pipes, and other conveyances only if they convey sewage to the BCRWWS.

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

Pretreatment requirements means all of the requirements that are set forth in this chapter and in 40 CFR 403.

Process wastestream/flow means sewage that is generated during manufacturing or processing, which comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

Removal is as defined in the general pretreatment regulations.

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

Sewage means solids, liquids, or gaseous materials discharged to the city's POTW. Sewage includes both domestic and nondomestic sewage.

1 *Sewage sludge* means any solid, semi-solid, or liquid residue generated during the treatment
2 of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic
3 septage; scum or solids removed in primary, secondary, or advanced wastewater treatment
4 processes; and a material derived from sewage sludge. Sewage sludge does not include ash
5 generated during the firing of sewage sludge in a sewage sludge incinerator or grit and
6 screenings generated during preliminary treatment of domestic sewage in a treatment works.

7 *Sewer (sanitary sewer)* means an artificial pipe or channel that carries sewage and to which
8 stormwater and groundwater are not intentionally admitted.

9 *Shall* means mandatory.

10 *SIU* means a user that:

- 11 (1) is subject to national categorical standards;
12 (2) discharges an average of 25,000 gallons per day (gpd) or more of process flow to the
13 POTW;
14 (3) discharges of process flow which makes up five percent or more of the average dry
15 weather hydraulic or organic capacity of the POTW treatment plant; or
16 (4) has a reasonable potential, in the opinion of the control authority, to adversely affect the
17 POTW treatment plant.

18 *Slug load or slug discharge* means any discharge at a flow rate or concentration which could
19 cause a violation of the prohibited discharge standards in section 44-82(d) of this article. A slug
20 discharge is any discharge of a non-routine, episodic nature, including by not limited to an
21 accidental spill or a non-customary batch discharge, which has reasonable potential to cause
22 interference or pass-through, or in any other way violate the POTW's regulations, local limits or
23 permit conditions.

24 *SIC* means a classification pursuant to the Standard Industrial Classification Manual issued
25 by the office of management and budget.

26 *Stormwater* means any flow occurring during or following any form of natural precipitation,
27 and resulting from such precipitation, including snowmelt.

28 *Surcharge* means the additional wastewater service charge incurred by any user discharging
29 waste containing higher concentrations of BOD, oil and grease, TSS and COD than those defined
30 for domestic sewage herein.

31 *TCEQ* means the state agency of that title, or where appropriate, the term may also be used
32 as a designation for the control authority or other duly authorized official of said agency.

33 *To discharge* includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise
34 release or dispose of, or to allow, permit or suffer any of these acts.

35 *TSS* means solids that either float on the surface or are in suspension, measured at 103 -
36 105 degrees Celsius, expressed in mg/l, as determined by approved test procedures.

37 *Upset* means an exceptional incident in which there is an unintentional and temporary
38 noncompliance with pretreatment regulations because of factors beyond the reasonable control of
39 the IU. This does not include noncompliance caused by operational error, improperly designed
40 treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless
41 or improper operation.

42 *User* means a discharger of any nondomestic sewage to the POTW. A user includes, but is
43 not limited to, any individual, firm, company, partnership, corporation, group, association,
44 organization, agency, city, county, or district.

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

- (c) The meaning of all terms used in this article that are not defined above shall be as defined in title 40, Code of Federal Regulations.

Sec. 44-82. - Pretreatment standards.

- (a) There are three (3) types of pretreatment standards: prohibited discharge standards, including general, specific, and dilution prohibitions; national categorical standards; and local limits. These standards shall apply to a user whether or not the user is subject to other federal, state, or local requirements.
- (b) The standards in this subsection shall apply to each user, as applicable. Users in an industrial manufacturing category specified in 40 CFR (I)(N), "Effluent Guidelines and Standards," shall be subject to prohibited discharge standards, national categorical standards, and local limits. Other users shall be subject to prohibited discharge standards and local limits. Where these standards overlap, the most stringent standard shall apply to the user.
- (c) The control authority, at his discretion, has the right to apply these standards to individual nondomestic discharges before they are commingled.
- (d) Prohibited discharge standards.
- (1) General prohibitions. A user may not discharge to the POTW any material which causes pass-through or interference.
- (2) Specific prohibitions. The following shall not be discharged to the POTW:
- a. Discharges which are capable of creating a fire or explosion hazard in the POTW. These discharges include, but are not limited to, discharges with a closed cup flashpoint of less than 140 degrees Fahrenheit, as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM (American Society for Testing and Materials) standard D-93-79 or D-93-80K or a Seta flash Closed Cup Tester, using the test method specified in ASTM standard D-3278-78;
 - b. Discharges which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.5 or greater than 9.5;
 - c. Discharges containing:
 - i. solid or viscous materials in amounts which will cause obstruction to the flow in or proper operation of the POTW resulting in interference;
 - ii. any materials such as wax, grease, oil, or plastics that will solidify or become discernibly viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (32-150°F);
 - iii. petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
 - iv. any materials such as 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 or bulk solids in such quantities capable of causing interference with the POTW; or
 - v. any fats, oils, greases or similar materials in excess of a daily average limit of two hundred (200) mg/l using approved methods for fats, oils and greases.
 - d. Discharges having a temperature higher than one hundred fifty (150) degrees Fahrenheit (150°F) and sixty-five degrees Celsius (65°C), or any discharge which contains heat in amounts which will inhibit biological activity or cause interference with the POTW, but in no case heat in such quantities that the temperature at the

headworks of the POTW exceeds one hundred four (104) degrees Fahrenheit (104°F) and forty (40) degrees Celsius (40°C);

- e. Discharges that contain any noxious or malodorous materials which can form a gas; which, either singly or by interaction with other discharges, are capable of causing objectionable odors or hazard to life; which creates any other condition deleterious to the POTW; or which requires unusual provisions, attention, or expense to handle;
- f. Discharges which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute workers health and safety problems;
- g. Discharges that are capable of causing excessive discoloration in the POTW effluent;
- h. Discharges with unusual flow and concentration, including those with oxygen demanding materials, at a flow rate or concentration which will cause interference with the POTW, or, if such materials can cause damage to collection facilities, impair the treatment processes, incur excessive treatment cost, or cause the city to be noncompliant with the conditions of its discharge permits;
- i. Discharges containing a BOD or TSS concentration in excess of 7,000 mg/L;
- j. Discharges classified by the TCEQ as hazardous waste at 31 TAC 335 without the written approval of the control authority;
- k. Discharges containing radioactive materials without the written approval of the control authority;
- l. Materials that are trucked or hauled in, except at discharge points that are designated by the control authority;
- m. Discharges from steam cleaning and chemical cleaning businesses unless a facility or process is provided that will produce an effluent compliant applicable pretreatment requirements. There shall be no discharge of visible foam; or
- n. Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the control authority.

(3) Dilution prohibitions.

- a. No user shall ever add any material, either liquid or nonliquid, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the national categorical standards or local limits.
- b. This prohibition does not include dilution which is a normal part of the production process or a necessary part of the process to treat a waste, such as adding lime for neutralization or precipitation, or the mixture of compatible wastes in order to treat at capacity levels rather than treating wastes in small batches.
- c. The control authority, at his discretion, may impose mass limitations on a user that is using dilution to meet applicable pretreatment standards or requirements, or in cases where the imposition of mass limitations is appropriate.

(e) National Categorical Standards.

- (1) National Categorical standards apply to specific industrial subcategories under 40 CFR (I), (N), "EPA Effluent Guidelines and Standards." A user that falls into one of these

subcategories shall be subject to the pretreatment standards applicable to that subcategory and is classified as a categorical user.

- (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the control authority shall impose an alternate limit in accordance with 40 CFR 403.6(e).

(f) Local limits. Local limits are quantitative limits on discharges applicable to all users. Local limits are designed to meet the general and specific prohibitions in this article.

- (1) Existing local limits. Local limits are periodically reviewed by the control authority and revised as necessary to respond to changes in federal, state, or local regulations, environmental protection criteria, plant design and operational criteria, and the nature of industrial discharges to the POTW. Local limits are as follows:

Constituent*	Maximum Allowable Concentration in a Daily Composite, mg/L
Arsenic	0.43
Cadmium	0.09
Chromium	10.7
Copper	1.93
Cyanide	0.4
Lead	0.57
Manganese	52.7
Mercury	0.0**
Molybdenum	1.07
Nickel	3.69
Phosphorus	14.88
Selenium	0.17
Silver	0.71
Zinc	1.8

Notes:

*Limits for metal based on unfiltered samples.

**Compliance shall be measured at the minimum analytical level (MAL) of 0.0002 mg/L)

- (2) Case-by-case local limits. Local limits that have not yet been established for a material may be developed on a case-by-case, user specific basis. A user must have the case-by-case local limits included in a permit before discharging to the POTW.

- (3) The above limits apply at the point where the wastewater is discharged to the POTW.

Sec. 44-83. - Significant users.

- (a) *Option to exclude IUs.* The control authority need not list as significant any IU that does not meet the definition of a SIU as found in 40 CFR 403.3(t).

- (b) *Delisting of IUs.* Any IU that has been listed as a SIU may petition the control authority to be removed from the SIU list and reclassified as nonsignificant on the grounds that it has no potential for adversely affecting the POTW's operation or for violating any of the pretreatment requirements.

- (c) *Notification requirements.* If an IU has been listed as a SIU by the control authority for whatever reason, prior to removal from the list, the control authority will notify the approval authority.

1 **Sec. 44-84. - Discharge permits.**

2 (a) *Applicability.* The following shall obtain a discharge permit:

- 3 (1) Significant users;
- 4 (2) Categorical users;
- 5 (3) Businesses or industries with a manufacturing process;
- 6 (4) Any other business, individual or entity connected to the sanitary sewer, which in the
- 7 opinion of the control authority requires a permit.

8 These entities shall obtain a permit from the control authority prior to discharging non-domestic

9 sewage to the BCRWWS. Permit applications shall be submitted to the control authority prior to

10 permit issuance. Either the owner or operator of a user's facility shall submit the application.

11 (b) *Denial or condition of permit.* The control authority has the right to deny or condition a permit for

12 any nondomestic discharges that do not meet the pretreatment requirements or would cause the

13 city to be noncompliant with the conditions of the BCRWWS's discharge permits.

14 (c) *Permit conditions.*

15 (1) *Minimum conditions.* The permit will contain the following minimum conditions:

- 16 a. Period during which the permit is effective, in no case greater than five (5) years.
- 17 A statement that indicates the wastewater discharge permit issuance date,
- 18 expiration date and effective date is required;
- 19 b. Transferability of the permit to a new owner or operator allowable only with
- 20 notification and approval of control authority;
- 21 c. Limits on the volume and quality of sewage discharged based on the
- 22 pretreatment standards;
- 23 d. Self-monitoring, sampling, reporting, notification, and record-keeping
- 24 requirements. These requirements shall include an identification of pollutants (or
- 25 BMPs) to be monitored, sampling location, sampling frequency, and sample type
- 26 based on federal, state and local law.
- 27 e. A statement of applicable civil and criminal penalties for violation of pretreatment
- 28 standards and requirement, and any other applicable compliance schedule. Such
- 29 schedules may not extend the compliance date beyond applicable federal
- 30 deadlines;
- 31 f. Effluent limits, including BMPs, based on applicable pretreatment standards; and
- 32 g. Requirements to control slug discharge, if determined by the control authority to
- 33 be necessary.

34 (2) *Other conditions.* The following conditions, as applicable, shall be in the permit:

- 35 a. Conditions and compliance schedule necessary to achieve compliance with the
- 36 pretreatment requirements;
- 37 b. Plans to prevent and control spills and batch discharges;
- 38 c. Any other conditions necessary to ensure compliance with the pretreatment
- 39 requirements, and other federal, state and local requirements; and
- 40 d. A statement requiring that all reports contain the certification statement at 40
- 41 CFR 403.6(a)(2);
- 42 e. Limits on the average and/or maximum rate of discharge, time of discharge,
- 43 and/or requirements for flow regulation and equalization;

- 1 f. Requirements for the installation of pretreatment technology, pollution control, or
2 construction of appropriate containment devices, designed to reduce, eliminate,
3 or prevent the introduction of pollutants into the treatment works;
- 4 g. Requirements for the development and implementation of spill control plans or
5 other special conditions including best management practices necessary to
6 adequately prevent accidental, unanticipated, or non-routine discharges;
- 7 h. Development and implementation of waste minimization plans to reduce the
8 amount of pollutants discharged to the POTW;
- 9 i. Requirements for installation and maintenance of inspection and sampling
10 facilities and equipment, including flow measurement devices;
- 11 j. A statement that compliance with the individual wastewater discharge permit
12 does not relieve the permittee of responsibility for compliance with all applicable
13 Federal and State Pretreatment Standards, including those which become
14 effective during the term of the individual wastewater discharge permit.
- 15 (d) *Permit application.*
- 16 (1) Applications for new permits, permit renewals, and permit modifications shall be made on a
17 standard form provided by the control authority. Applications shall be submitted to the
18 control authority.
- 19 (2) Incomplete or inaccurate applications will not be processed and will be returned to the user
20 for revision.
- 21 (e) *Existing users.* Significant users with existing nondomestic discharges prior to March 14, 1990,
22 shall submit a permit application before September 15, 1990. Other users with existing
23 nondomestic discharges prior to March 14, 1990, shall submit a permit application before June
24 15, 1990. Existing users shall be allowed to discharge nondomestic sewage without a permit until
25 the control authority has issued the user a permit, if the user has submitted a permit application
26 with the applicable time period.
- 27 (f) *New Users.* A new user shall submit a permit application and obtain a permit before discharging
28 to the POTW. An application shall be submitted by significant users at least one hundred eighty
29 (180) days before the date the discharge will begin or recommence. It is recommended that an
30 application be submitted by other user at least ninety (90) days before the date the discharge will
31 begin or recommence
- 32 (g) *Discharge and permit modifications.* If a user with a discharge permit wishes to add or change a
33 process or operation which would change the nature or increase the quantities of materials
34 discharged to the POTW such that the user would be noncompliant with the user's permit
35 requirements or the pretreatment requirements, the user shall obtain approval by the control
36 authority prior to making these additions or changes to the discharge. Approval shall be given by
37 the control authority by a modification, or revocation and re-issuance of the permit. A significant
38 user shall submit an application for permit modification at least one hundred eighty (180) days
39 before the date the change in discharge is expected to begin. It is recommended that an
40 application be submitted by other users at least ninety (90) days before the date the change in
41 discharge is expected to begin.
- 42 (h) *Permit renewal.* A permit may have a period of duration up to five (5) years. A permit shall be
43 renewed by submitting an application for renewal. An application for the user shall be submitted
44 at least ninety (90) days before the expiration date of the existing permit.
- 45 (i) *Re-opening of permit.* The control authority may modify an individual wastewater discharge
46 permit for good cause, including, but not limited to:
- 47 (1) To incorporate any new or revised federal, state, or local pretreatment standards or
48 requirements;

- (2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
 - (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - (4) Information indicating that the permitted discharge poses a threat to the POTW, personnel, or the receiving waters;
 - (5) Violation of any terms or conditions of the individual wastewater discharge permit;
 - (6) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - (7) Revision or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
 - (8) To correct typographical or other errors in the individual wastewater discharge permit; or
 - (9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with section 44-84(j).
- (j) *Changes in owner or operator.*
- (1) *Transfer of permit.* A permit shall only be transferred to a new owner or operator if the following conditions are met. The expiration date of the permit is not extended by the transfer. The control authority will send to the owner or operator a revision to the permit to reflect the change in owner or operator.
 - a. The nature of the discharge or operation of the facility will not change under the new owner or operator;
 - b. The current owner or operator notifies the control authority at least thirty (30) days in advance of the proposed transfer date;
 - c. The notification includes a written agreement between the current and new owner or operator continuing a specific date for transfer of permit responsibility, coverage, and liability between them; and
 - d. The control authority does not notify the current and new owner or operator of the control authority's intent to revoke and reissue the permit. If the control authority does not notify, the transfer is effective on the date specified in the written agreement.
 - (2) *Revocation and re-issuance of permit.* If above conditions in subsection (j)(1) of this section are not met, the control authority shall require the new owner or operator to submit a permit application as a new user and obtain a permit before discharging to the POTW. In addition, the current owner or operator shall notify the control authority at least thirty (30) days in advance of the proposed date on which the ownership will change.
 - (3) *Advance Notice.* Failure to provide advance notice of a transfer renders the individual wastewater discharge permit void as of the date of the facility transfer.
- (k) *Wastewater discharge permit revocation.*
- (1) The control authority may revoke an individual wastewater permit for good cause, including but not limited to, the following reasons:
 - a. Failure to notify the control authority of significant changes to the wastewater prior to the changed discharge;
 - b. Failure to provide prior notification to the control authority of changed conditions pursuant to this article.

- c. Misrepresentation of failure to fully disclose all relevant acts in the wastewater discharge permit application;
 - d. Falsifying self-monitoring reports and certification statements;
 - e. Tampering with monitoring equipment;
 - f. Refusing to allow the control authority timely access to the facility premises and records;
 - g. Failure to meet effluent limitations;
 - h. Failure to pay fines;
 - i. Failure to pay sewer charges;
 - j. Failure to meet compliance schedules;
 - k. Failure to complete a wastewater survey or wastewater discharge permit application;
 - l. Failure to provide advance notice of transfer of business ownership of a permitted facility; or
 - m. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.
- (2) All wastewater discharge permits issued to a user are void upon the issuance of a new individual wastewater discharge permit to that user.
- (l) *Application signatories and certifications.*
- (1) All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement of this article.
 - (2) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.
- (m) *Regulation of waste received from other jurisdictions.*
- (1) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the Control Authority shall enter into an intermunicipal agreement with the contributing municipality.
 - (2) Prior to entering into an agreement required by paragraph (1), above, the Control Authority shall request the following information from the contributing municipality:
 - a. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
 - b. An inventory of all users located within the contributing municipality that are discharging to the POTW; and
 - c. Such other information as the Control Authority may deem necessary.
 - (3) An intermunicipal agreement, as required by subsection (1), above, shall contain the following conditions:
 - a. A requirement for the contributing municipality to adopt a sewer use ordinance or similar control document, that is at least as stringent as the Control Authority's ordinance. The document must include local limits, BMRs, and a requirement that the control document and limits must be revised as necessary to reflect

changes made to the Control Authority's ordinance or local limits;

- b. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
- c. A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Control Authority; and which of these activities will be conducted jointly by the contributing municipality and the Control Authority;
- d. A requirement for the contributing municipality to provide the Control Authority with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- e. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- f. Requirements for monitoring the contributing municipality's discharge;
- g. A provision ensuring the Control Authority access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Control Authority; and
- h. A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

Sec. 44-85. - Removal credits.

- (a) The control authority may, at his discretion, grant removal credits to a CU to reflect removal by the POTW of materials specified in the national categorical standards. The control authority may grant a removal credit equal to or, at his discretion, less than the POTW's consistent removal rate. Removal credits may only be given for indicator or surrogate materials regulated in a national categorical standard if the standard so specifies.
- (b) A user shall submit a removal credit application to the control authority. Written approval by the control authority shall be obtained prior to taking the removal credit. Application shall be made on a standard form provided by the control authority.
- (c) The control authority has the right to grant removal credits only after the user has met the requirements of the general pretreatment regulations.

Sec. 44-86. - Notification requirements.

Notification to the control authority is required for any of the following. The timing, content, and form of notification are established either in the discharge application or discharge permit, as applicable.

- (a) A condition or event that would cause pass-through of or interference with the POTW, including slug loadings as defined by sections 44-81 and 44-82.
- (b) Permit noncompliance.
- (c) Bypasses and upsets.
- (d) A change in pretreatment processes.
- (e) A change in monitoring facilities such as location and type of equipment.
- (f) Discharges of hazardous waste.
- (g) Discharges containing radioactive materials.
- (h) Other appropriate conditions or events to ensure compliance with the pretreatment requirements, and other federal, state, or local requirements.

1 **Sec. 44-87. - Reporting requirements.**

2 (a) *Baseline report.* Categorical users shall submit baseline reports in accordance with the general
3 pretreatment regulations.

4 (1) Within either one hundred eighty (180) days after the effective date of the categorical
5 pretreatment standard, or the final administrative decision on a category determination
6 under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently
7 discharging to or scheduled to discharge to the POTW shall submit to the control authority
8 a report which contains the information listed in subsection (a)(2) of this section. At least
9 ninety days prior to commencement of their discharge, new sources, and sources that
10 become categorical users subsequent to the promulgation of an applicable categorical
11 standard, shall submit to the control authority a report which contains the information listed
12 in subsection (a)(2) of this section. A new source shall report the method of pretreatment it
13 intends to use to meet applicable categorical standards. A new source also shall give
14 estimates of its anticipated flow and quantity of pollutants to be discharged.

15 (2) Users described above shall submit the following:

16 a. *Identifying information.* The name and address of the facility, including the name
17 of the operator and owner.

18 b. *Environmental permits.* A list of any environmental control permits held by or for
19 the facility.

20 c. *Descriptions of operations.* A brief description of the nature, average rate of
21 production, and standard industrial classifications of the operation(s) carried out
22 by such user. This description should include a schematic process diagram
23 which indicates points of discharge to the POTW from the regulated processes.

24 d. *Flow measurement.* Information showing the measured average daily and
25 maximum daily flow, in gallons per day, to the POTW from regulated process
26 streams and other streams, as necessary, to allow use to the combined
27 wastestream formula.

28 e. *Measurement of pollutants.* The categorical pretreatment standards applicable to
29 each regulated process. The results of sampling and analysis identifying the
30 nature and concentration, and/or mass, where required by the standard or by the
31 control authority, of regulated pollutants in the discharge from each regulated
32 process. Instantaneous, daily maximum, and long-term average concentrations,
33 or mass, where required, shall be reported. The sample shall be representative
34 of daily operations and shall be collected and analyzed in accordance with
35 procedures set out in 40 CFR 136. Where the standard requires compliance with
36 a BMP or pollution prevention alternative, the user shall submit documentation as
37 required by the control authority or the applicable standards to determine
38 compliance with the standard. The user shall take a minimum of one (1)
39 representative sample to compile the data necessary to comply with the
40 requirements of this paragraph. Samples should be taken immediately
41 downstream from pretreatment facilities if such exist or immediately downstream
42 from the regulated process if no pretreatment exists. If other wastewaters are
43 mixed with the regulated wastewater prior to pretreatment, the user should
44 measure the flows and concentrations necessary to allow use of the combined
45 wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the
46 pretreatment standards. Where an alternate concentration or mass limit has been
47 calculated in accordance with 40 CFR 403.6(e), this adjusted limit along with
48 supporting data shall be submitted by the control authority.

49 f. *Signature and certification.* All baseline monitoring reports must be signed and
50 certified in accordance with 40 CFR 403.6(a)(2)(ii). This statement must be
51 reviewed by an authorized representative of the IU and certified by a qualified

- 1 professional, indicating whether pretreatment standards are being met on a
2 consistent basis.
- 3 (3) The control authority may allow the submission of a baseline report which utilizes only
4 historical data so long as the data provides information sufficient to determine the need for
5 industrial pretreatment measures.
- 6 (4) The baseline report shall indicate the time, date and place of sampling and methods of
7 analysis, and shall certify that such sampling and analysis is representative of the normal
8 work cycles and expected pollutant Discharges to the POTW.
- 9 (b) *Compliance schedule progress reports.*
- 10 (1) Should additional pretreatment or operation and maintenance be required to meet
11 pretreatment standards, a compliance schedule will be issued. The schedule shall contain
12 progress increments in the form of dates for the commencement and completion of major
13 events leading to the construction and operation of additional pretreatment facilities
14 required for the user to meet the applicable pretreatment requirements.
- 15 (2) No increment shall exceed nine (9) months.
- 16 (3) The user shall submit a progress report to the control authority no later than fourteen (14)
17 days following each date in the schedule and the final date of compliance. This report shall
18 include as a minimum, whether or not the user complied with the progress increments,
19 reasons for any delays, and steps being taken by the user to return to the established
20 schedule.
- 21 (c) *Reports on compliance with categorical pretreatment standard deadline.* Within ninety (90) days
22 following the date for final compliance with applicable categorical pretreatment standards, or, in
23 the case of a new source following commencement of the introduction of wastewater into the
24 POTW, any user subject to such pretreatment standards and requirements shall submit to the
25 control authority a report containing the information described in subsections (a)(2)d—f of this
26 section. For users subject to equivalent mass or concentration limits established in accordance
27 with 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term
28 production rate. For all other users subject to categorical pretreatment standards expressed in
29 terms of allowable pollutant discharge per unit of production this report shall include the user's
30 actual production during the appropriate sampling period. All compliance reports must be signed
31 and certified in accordance with 40 CFR 403.6(a)(2). Categorical users shall submit reports in
32 accordance with the general pretreatment regulations on compliance schedule progress,
33 compliance with categorical pretreatment standard deadlines, and continued compliance with
34 categorical pretreatment standards.
- 35 (d) *Periodic reports on continued compliance.*
- 36 (1) All SIUs shall, at a frequency determined by the control authority but in no case less than
37 twice per year, submit a report indicating the nature and concentration of pollutants and the
38 estimated or measured daily maximum and average flows of the discharges to which
39 pretreatment requirements are applicable for the reporting period. In cases where the
40 pretreatment standard requires compliance with BMPs or pollution preventative alternative,
41 the user must submit documentation required by the control authority or the pretreatment
42 standard necessary to determine the compliance status of the user. All periodic reports
43 must be complete, signed and certified in accordance with 40 CFR 403.6(a)(2)(ii).
- 44 (2) The control authority may require all other users and/or persons discharging nondomestic
45 wastewater into the POTW to submit appropriate reports concerning the nature and
46 concentration of pollutants in the discharge.
- 47 (3) All wastewater samples must be representative of user's discharge. Wastewater monitoring
48 and flow measurement facilities shall be properly operated, kept clean, and maintained in
49 good working order shall not be grounds for the user to claim that sample results are
50 unrepresentative of its discharge.

- (4) Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard.
- (e) *Reports of additional samples taken.* If a user subject to pretreatment requirements monitors any pollutant more frequently than required using approved test procedures, the results of this monitoring shall be included in the periodic reports.
- (f) *Repeat sampling and reporting.*
- (1) If sampling performed by a user indicates a violation, the user must notify the control authority within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within thirty (30) days after becoming aware of the violation.
- (2) Re-sampling by the IU is not required if the control authority performs sampling at the user's facility at least once a month, or if the control authority performs sampling at the user between the time when the initial sampling was conducted and the time when the user of the control authority receives the results of the sampling, or if the control authority has performed the sampling and analysis in lieu of the IU. If the city performed the sampling and analysis in lieu of the IU, the city will perform the repeat sampling and analysis unless the city notifies the user of the violation and requires the user to perform the repeat sampling and analysis and submit the results within the thirty (30) day time frame.
- (g) *Sample collection and monitoring requirements.* All sampling techniques and pollutant analyses used for compilation of data required to be submitted as part of a wastewater discharge application or report required by any pretreatment requirement shall be performed in accordance with the techniques prescribed in 40 CFR 136 unless otherwise specified in an applicable categorical pretreatment standard.
- (h) *Additional reports.* The control authority has the right to request any additional reports from a user that are necessary to assess and assure compliance with the pretreatment requirements.
- (i) *Record keeping.*
- (1) Users and the control authority subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and additional records obtained pursuant to monitoring activities undertaken by the user independent of such requirements and documentation associated with BMPs.
- (2) Records shall include the date, exact place, method, and time of the sampling and the name of the person(s) taking the sample; dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of the analyses.
- (3) Records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user of the control authority, or where the user has been specifically notified of a longer retention period by the control authority.
- (j) *Reports of changed conditions.* Each user must notify the control authority of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change.
- (1) The control authority may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under this article.
- (2) The control authority may issue an individual wastewater discharge permit under this article in response to changed conditions or anticipated changed conditions.

1 (k) *Reports of a potential problem.*

- 2 (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges
3 of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug
4 load, that might cause potential problems for the POTW, the user shall immediately
5 telephone and notify the control authority of the incident. This notification shall include the
6 location of the discharge, type of waste, concentration and volume, if known, and corrective
7 actions taken by the user.
- 8 (2) A notice shall be permanently posted on the user's bulletin board or other prominent place
9 advising employees who to call in the event of a discharge described in subsection (1)
10 above. Employees shall ensure that all employees who could cause such discharge to
11 occur, are advised of the emergency notification procedure.
- 12 (3) SIUs are required to notify the control authority immediately of any changes at its facility
13 affecting the potential for slug discharge.

14 (l) *Analytical requirements.*

- 15 (1) All pollutant analyses, including sampling techniques, to be submitted as part of a
16 wastewater discharge permit application or report shall be performed in accordance with
17 the techniques prescribed in 40 CFR 136 and amendments thereto, unless otherwise
18 specified in applicable categorical pretreatment standards. If 40 CFR 136 does not contain
19 sampling or analytical techniques for the pollutant in question, or where the EPA
20 determines that Part 136 sampling and analytical techniques are inappropriate for the
21 pollutant in question, sampling and analyses shall be performed by using validated
22 analytical methods or any other applicable sampling and analytical procedures, including
23 procedures suggested by the control authority or other parties approved by the EPA.
- 24 (2) Non-detectable sample results may only be used as a demonstration that a pollutant is not
25 present if the EPA approved method from 40 CFR 136 with the lowest minimum detection
26 level for that pollutant was used in the analysis.

27 (m) *Sample collection.* Samples collected to satisfy reporting requirements must be based on data
28 obtained through appropriate sampling and analysis performed during the period covered by the
29 report, based on data that is representative of conditions during the reporting period.

- 30 (1) Except as indicated in subsections (2) and (3) below, the user must collect wastewater
31 samples using twenty-four (24)-hour flow proportional composite sampling techniques,
32 unless time proportional composite sampling or grab sampling is authorized in writing by
33 the control authority. Where time proportional composite sampling or grab sampling is
34 authorized in writing by the control authority, the samples must be representative of the
35 discharge. The user must demonstrate in writing that the time-proportional or grab samples
36 are representative of the discharge before the city may allow the user to submit such
37 samples. The city must document in the users file the decision to allow alternative sampling
38 or site-specific circumstances. Using protocols (including appropriate preservation)
39 specified in 40 CFR 136 and appropriate EPA guidance, multiple grab samples collected
40 during a twenty-four (24)-hour period may be composited prior to analysis as follows: for
41 cyanide, total phenols, and sulfides the samples may be composited in the laboratory or the
42 field; for volatile organics and oil and grease, the samples may be composited in the
43 laboratory. Composite samples for other parameters unaffected by the composting
44 procedures as documented in the approved EPA methodologies may be authorized by the
45 control authority in writing as appropriate. In addition, grab samples may be required to
46 show compliance with instantaneous limits.
- 47 (2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile
48 organic compounds must be obtained using grab collection techniques.
- 49 (3) For sampling required in support of baseline monitoring and ninety (90)-day compliance
50 reports required by this article and 40 CFR 403.12(b) and (d), a minimum of four (4) grab
51 samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile

organic compounds for facilities for which historical sampling data do not exist; for facilities for which historic sampling data are available, the control authority may authorized a lower minimum. For reports required by this article and 40 CFR 403.12(e) and 403.12(h), the IU is required to collect the number of grab samples necessary to assess and assure compliance by the applicable pretreatment standards and requirements.

- (4) Total residual chlorine, pH and temperature samples cannot be "composited: under any circumstances.
- (5) When sampling facilities that discharge less than twenty-four (24) hours per day, the sampling must be representative of the user's wastewater discharge.
- (6) During parts of the day when there is no discharge of process wastewater, standing water should not be disproportionately sampled and analyzed as it would not be representative of the discharge from the user.
- (7) When there has been a change to existing users, such as the addition of treatment, historic data that does not represent the current discharge would not be able to be used to justify a lower minimum of grab samples.
- (8) The city can require more than four (4) grab samples to be taken and separately analyzed to ensure that sampling is representative.
- (9) The sampling requirements apply to baseline reports, compliance schedule progress reports, reports on compliance with categorical pretreatment standard deadline, and periodic reports of continued compliance, noncategorical user reports and reports of additional samples taken.

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

(o) *Certification statements for certification of permit applications and user reports.*

- (1) The following certification statement is required to be signed and submitted by:
 - a. users submitting permit applications in accordance with this article;
 - b. users submitting baseline monitoring reports under this article and 40 CFR 403.12(l);
 - c. users submitting reports on compliance with categorical pretreatment standard deadlines under this article and 40 CFR 403.12(d); and
 - d. users submitting periodic compliance reports required by this article and 40 CFR 403.12(e) and (h).

- (2) The following certification statement must be signed by an authorized representative as defined in this article:

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

Sec. 44-88. - Pretreatment facilities.

Users shall provide pretreatment facilities if they are necessary in order to comply with the pretreatment standards in this article.

1 (a) *Approval of proposed pretreatment facilities.* Plans, specifications, and any other pertinent
2 information related to proposed pretreatment facilities for significant users shall be submitted to
3 the control authority. Other users may be requested by the control authority to submit plans,
4 specifications, and any other pertinent information related to proposed pretreatment facilities.
5 Construction of such facilities prior to acceptance by the control authority may be done solely at
6 the risk of the user. This acceptance shall in no way relieve the user of the obligation to install,
7 operate, maintain and, if necessary, modify the pretreatment facilities to maintain compliance with
8 the pretreatment requirements. Pretreatment facilities shall be constructed so as to provide the
9 following:

- 10 (1) Prevention of prohibited discharges from entering a sewer;
- 11 (2) Control of the quantities and rates of discharge of nondomestic sewage into a sewer; and
- 12 (3) An accessible entry so that any authorized employee of the city may readily and safely
13 inspect and monitor the nondomestic discharges.

14 (b) *Pretreatment facilities to be maintained.*

- 15 (1) The control authority may require the user to install monitoring equipment as necessary.
16 The facility's sampling and monitoring equipment shall always be maintained in a safe and
17 proper operating condition by the user at its own expense. All devices used to measure
18 wastewater flow and quality shall be calibrated to ensure accuracy.
- 19 (2) Pretreatment facilities shall be maintained in satisfactory and effective operation by the
20 user at the user's expense. Operation and maintenance records shall be maintained by the
21 user as specified in the user's discharge permit.

22 (c) *Accidental discharge/slug control plans.* Users discharging nondomestic wastewater into the
23 POTW shall provide protection from the accidental discharge of prohibited wastes. Prior to the
24 commencement of any nondomestic discharge and whenever necessary, the control authority
25 shall evaluate whether each significant user requires an accidental discharge/slug control plan.
26 The director may require any user to develop, submit for approval, and implement such a plan.
27 Alternatively, the director may develop such a plan for any user. Each plan shall include the
28 following as a minimum:

- 29 (1) Description of discharge practices, including nonroutine batch discharges;
- 30 (2) Description of stored chemicals;
- 31 (3) Procedures for immediately notifying the director of any accidental or slug discharge, as
32 required by this article;
- 33 (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such
34 procedures include, but are not limited to, inspection and maintenance of storage areas,
35 handling and transfer of materials, loading and unloading operations, control of plant site
36 runoff, worker training, building of containment structures or equipment, measures for
37 containing toxic organic pollutants, measures and equipment for emergency response and
38 any other procedures deemed necessary to prevent accidental/slug discharges from
39 entering the POTW.

40 (d) *Additional pretreatment measures.*

- 41 (1) Whenever deemed necessary, the control authority may require user to restrict their
42 discharge during peak flow periods, designate that certain wastewater be discharged only
43 into specific sewers, relocate and/or consolidate points of discharge, separate sewage
44 waste streams from industrial waste streams, and such other conditions as may be
45 necessary to protect the POTW and determine the user's compliance with the requirements
46 of this article.
- 47 (2) Grease, oil and sand interceptors shall be provided when deemed necessary by the control
48 authority for the proper handling of wastewater containing excessive amounts of grease
49 and oil or sand. Such interceptors shall not be required for residential users. All interception

units shall be of type and capacity approved by the control authority and shall be so located to be easily accessible for cleaning an inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense. Operation and maintenance records shall be kept onsite for control authority review.

- (3) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(e) Requirements for pumping grease interceptors.

- (1) A user who discharges wastewater from a grease interceptor to the POTW shall completely remove all fat, oil, or grease waste, other liquid waste, semi-solid or solid and residue from the grease interceptor when the grease interceptor is pumped.
- (2) The user shall have the grease interceptor pumped at least every three (3) months or when the grease interceptor exceeds twenty-five percent (25%) floatable/settleable solids to seventy-five percent (75%) water ratio.
- (3) The control authority may reduce the pumping frequency requirement in writing if the control authority determines, based on the documentation that the user will not violate the ratio requirement in subsection (2) above.
- (4) The control authority may require the user to have other pumping or cleaning requirements to protect the POTW or the sanitary sewer.

(f) Hauled wastewater.

- (1) Septic tank waste may be introduced by the POTW only at locations designated by the control authority and at such times as are established by the control authority. Such waste shall not violate this article or any other requirements established by the control authority. The control authority may require septic tank waste haulers to obtain individual wastewater discharge permits.
- (2) The disposal of hauled industrial waste is prohibited.

Sec. 44-89. - Inspection, surveillance, and monitoring.

(a) Minimum monitoring requirements.

- (1) Significant users shall be required to self-monitor to meet, at a minimum, the requirements of the general pretreatment regulations.
- (2) Users that have the potential to routinely discharge nondomestic sewage that contains concentrations of BOD, TSS, and COD higher than those defined for domestic sewage herein shall be independently monitored by the city for flow, BOD, TSS, COD and pH at least once a year. The control authority shall determine which users have this potential.
- (3) The city may independently monitor all other users for flow, BOD, TSS, COD, and pH at a frequency in relation to their potential impact on the POTW, as determined by the control authority.
- (4) The control authority may increase the frequency and/or add parameters to a user's self-monitoring program or the city's independent monitoring program to ensure compliance with the pretreatment requirements.

(b) Sampling and analysis.

- (1) Significant users shall meet the requirements of the general pretreatment regulations for sampling and analysis. Other users shall meet the requirements for sampling and analysis as stated herein or in the user's control document.
- (2) For all users, containers, preservation techniques, and holding times for samples shall comply with methods and procedures found at 40 CFR 136.

1 (3) For all users, sample analysis shall be in accordance with approved test procedures. The
2 control authority, at this discretion, may specify which approved test procedure shall be
3 used.

4 (4) Type of samples (grab or composite) and flow measurement shall be consistent with the
5 type of discharge and parameters being regulated and shall be specified by the control
6 authority in the permit.

7 (c) *Control point.* A user shall provide a control point for the purpose of sampling and flow
8 measurement. The location and design of the control point shall be approved by the control
9 authority. The control point shall be placed so that nondomestic sewage can be sampled and
10 measured prior to any commingling with domestic sewage or nonprocess flows. Written approval
11 of exceptions to this requirement shall be obtained by a user form the control authority. It is
12 recommended that the control point for sampling and flow measurement be at the same location.
13 Flow may be determined by water supply meter measurements if no other flow device is available
14 and no other source of raw water is used. Other methods for estimating wastewater discharge
15 flow must approved by the control authority.

16 (d) *Inspection and entry.*

17 (1) The control authority or his duly authorized representative, federal and state officials, upon
18 presentation of credentials and other documentation as may be required by law, shall be
19 permitted to gain access to such properties as may be necessary for the purpose of
20 inspection, observation, sampling, set up and use of monitoring equipment, and inspection
21 and copying of records having a direct bearing on the discharges of nondomestic sewage.
22 Unreasonable delays in allowing access to the user's premises shall be a violation of this
23 ordinance. The control authority may obtain search warrants to secure access to
24 facilities/property.

25 (2) Any temporary or permanent obstruction to safe and easy access to the facility to be
26 inspected and/or sampled shall be promptly removed by the user at the written or verbal
27 request of the control authority and shall not be replaced. The cost of clearing such access
28 shall be borne by the user.

29 (3) The control authority shall be permitted to randomly sample and analyze the effluent from
30 the users and conduct surveillance activities in order to identify, independent of information
31 supplied by users, occasional and continuing noncompliance with pretreatment standards.
32 Inspect and sample the effluent from each SIU as least once a year except as otherwise
33 specified below:

34 a. Where the control authority has authorized the user subject to a categorical
35 pretreatment standard, to forego sampling of a pollutant regulated by a
36 categorical pretreatment standard in accordance with 40 CFR 403.12(e)(3), the
37 control authority must sample the waived pollutants at least once during the term
38 of the categorical user's control mechanism. In the event that the control
39 authority subsequently determines that a waived pollutant is present or is
40 expected to be present in the user's wastewater based on changes that occur in
41 the user's operations, the control authority must immediately begin at least
42 annual effluent monitoring of the user's discharge and inspection.

43 b. Where the control authority has determined that a user meets the criteria for
44 classification as a non-significant user, the control authority must evaluate, at
45 least once per year, whether a user continues to meet the criteria in 40 CFR
46 403.3(v)(2).

47 c. In the case of a user subject to reduced reposting requirements under 40 CFR
48 403.12(e)(3), the control authority must randomly sample and analyze the
49 effluent from users and conduct inspections at least once every two (2) years. If
50 the user no longer meets the conditions for reduced reporting in 40 CFR

1 403.12(e)(3), the control authority shall immediately begin sampling and
2 inspecting the user at least

3 (e) *Use of contractors.* The control authority may select an independent contractor to conduct the
4 independent monitoring by the city.

5 (f) Accidental discharge/slug discharge control plans. The control authority shall evaluate whether
6 each SIU needs an accidental discharge/slug discharge control plan or other action to control
7 slug discharges within one (1) year of being designated as a SIU. The control authority shall keep
8 records of the activities associated with slug control evaluation and the results of such activities
9 shall be available to the approval authority upon request. SIUs are required to notify the POTW
10 immediately of any changes at its facility affecting potential for a slug discharge. The control
11 authority may require any user to develop, submit for approval, and implement such plan or take
12 such other action that may be necessary to control slug discharges. Alternatively, the control
13 authority may develop such a plan for any user. The control authority shall approve the plan and
14 will document compliance with such. An accidental discharge/slug discharge control plan shall
15 address, at minimum the following:

16 (1) Description of the discharge practices, including nonroutine batch discharges;

17 (2) Description of stored chemicals;

18 (3) Procedures for immediately notifying the control authority of any accidental or slug
19 discharged as required by this article; and

20 (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such
21 procedures include, but are not limited to, inspection and maintenance of storage areas,
22 handling and transfer of materials, loading and unloading operations, control of plant site
23 runoff, worker training, building of containment structures or equipment, measures for
24 containing toxic organic pollutants, including solvent, and/or measures and equipment for
25 emergency response.

26 **Sec. 44-90. - Enforcement.**

27 (a) *Administrative order.* In addition to any other actions or remedies authorized in this article, the
28 control authority or its duly authorized representative is authorized to enforce this article through
29 the exercise of any one or more of the following administrative actions. Unless otherwise
30 expressly set forth herein, the selection or use of one such action or remedy by the control
31 authority shall not be construed to prevent the control authority from pursuing any other
32 enforcement actions or remedies nor require the pursuit of a particular action or remedy as a
33 condition precedent to the use of any other such action or remedy.

34 (b) *Notice of violation.*

35 (1) The control authority shall serve a user that is found noncompliant with the pretreatment
36 requirements with a notice stating the nature of the noncompliance. This notice may or may
37 not be in writing.

38 (2) Any violation of pretreatment standards incurs immediate liability. Each day of violation
39 constitutes a separate noncompliance.

40 (3) Within thirty (30) days after the date of receipt of this notice, a user shall submit a written
41 response to the control authority with an explanation of the noncompliance, what steps are
42 currently being taken to prevent the noncompliance, and a plan for the correction and
43 continued prevention of the noncompliance. Submission of this response in no way relieves
44 the user of liability for any violations occurring before or after receipt of the notice of
45 violation.

46 (c) *Consent order.* The control authority may enter into consent orders, assurances of voluntary
47 compliance, or other similar documents establishing an agreement with any user responsible for
48 noncompliance. Such documents will include specific action to be taken by the user to correct the

1 noncompliance within a time period specified by the document. Such document shall have the
2 same force and effect as the administrative order issued pursuant to this article.

3 (d) *Show cause hearing.* The control authority may order a user which has violated, or continues to
4 violate, any provision of this article, a wastewater discharge permit or enforcement action issued,
5 or any other pretreatment requirement, to appear before the director and show cause why the
6 proposed enforcement action should not be taken. Notice shall be served on the user specifying
7 the time and place for the meeting, the proposed enforcement action, the reasons for such action,
8 and a request that the user show cause why the proposed enforcement action should not be
9 taken. The notice of the meeting shall be served by hand or certified mail at least ten (10) days
10 prior to the hearing. Such notice may be served on any authorized representative of the user. A
11 show cause hearing shall not be a bar against, or prerequisite for, taking any other action against
12 the user.

13 (e) *Compliance order/compliance schedules.*

14 (1) *Applicability.* If a user cannot comply with the pretreatment standards in section 44-82 or
15 any other pretreatment requirement, the control authority may provide a compliance order
16 containing a schedule for achieving compliance.

17 (2) *Allowable time for compliance.* The compliance schedule shall be the shortest time in which
18 the user is able to provide pretreatment facilities or changes in operation and maintenance
19 that will achieve compliance. If a user is given a compliance schedule for national
20 categorical standards, the completion date of this schedule shall not be later than the
21 compliance date established for the applicable national categorical standard and shall be in
22 accordance with the general pretreatment requirements. A user shall not continue
23 discharging in noncompliance of the pretreatment requirements beyond the time limit
24 provided in the compliance schedule.

25 (3) *Form of compliance schedule.* Compliance schedules may be provided by the control
26 authority by notice of noncompliance, enforcement order, or as part of the discharge permit.
27 The control authority has the right to re-open a user's discharge permit in order to add a
28 compliance schedule.

29 (f) *Cease and desist order.* When the control authority finds that a user has violated, or continues to
30 violate, any provision of this ordinance, a wastewater discharge permit or order issued herein, or
31 any other pretreatment standard or requirement, or that the user's past violations are likely to
32 recur, the control authority may issue an order to the user directing it to cease and desist all such
33 violations and directing the user to:

34 (1) Immediately comply with all requirements; and

35 (2) Take such appropriate remedial or preventive actions may be needed to properly address a
36 continuing or threatened violation, including halting operations and/or terminating the
37 discharge.

38 (g) *Authority to disconnect service.*

39 (1) *Conditions for disconnection.* The city shall have the right to disconnect a user's sewer
40 service when a user's discharge reasonably appears to:

41 a. Damage sewer lines or POTW treatment processes;

42 b. Cause the BCRWWS to be noncompliant with the conditions of its discharge
43 permits;

44 c. Present an endangerment to the environment or which threatens to interfere with
45 the operation of the POTW; or

46 d. Present an imminent endangerment to the health or welfare of persons.

47 (2) *Notification.* In the case of an imminent endangerment to the health or welfare of persons,
48 the control authority shall give oral or written notice to a user before disconnecting sewer

- 1 service. Under all other conditions for disconnection, the control authority shall give written
2 notice to a user before disconnection. Within ten days after receipt of notification of
3 disconnection, the user must submit a written response to the control authority with an
4 explanation of the cause of the problem and what measures have and will be taken to
5 prevent any future occurrence. Submission of this response in no way relieves the user of
6 liability for any violations occurring before or after receipt of the notice of disconnection.
- 7 (3) *Reconnection of service.* The user's sewer shall remain disconnected until such time that
8 the user has demonstrated that the cause of this noncompliance has been eliminated.
- 9 (4) *Liability.* The city shall not be liable for any resulting damage to the user's property as a
10 result of disconnection under the conditions for disconnection.
- 11 (h) *Termination of permit.* A user that violates any of the following conditions may be subject to
12 permit termination:
- 13 (1) Failure to report a reasonable estimate of the volume and quality of its nondomestic
14 sewage.
- 15 (2) Failure to notify the control authority of a change in process or operation which would
16 significantly change the nature or increase the quantities of materials discharged to the
17 POTW that would cause the user to be noncompliant with its discharge permit
18 requirements or the pretreatment requirements.
- 19 (3) Refusal of right of entry to the user's premises in accordance with section 44-29.
- 20 (4) Intentional violation of permit conditions.
- 21 (5) Falsifying information.
- 22 (6) Failure to pay sewer charges or fines.
- 23 (i) *Injunctive relief.* The control authority may seek injunctive relief to restrain or compel actions of a
24 user.
- 25 (j) *Civil and criminal penalties.* The control authority has the right to seek or assess civil or criminal
26 penalties in at least the amount of one thousand dollars (\$1,000.00) per day for each violation of
27 the user's permit or the pretreatment requirements.
- 28 (k) Publication of users in significant noncompliance.
- 29 (1) The control authority shall publish annually, in a newspaper of general circulation that
30 provides meaningful public notice within the jurisdictions served by the municipality where
31 the POTW is located, a list of the users which, at any time during the previous twelve (12)
32 months, were in significant noncompliance with the applicable pretreatment standards and
33 requirements.
- 34 (2) The term significant noncompliance shall be applicable to all SIUs (or any other IU that
35 violates paragraphs (c), (d) or (h) below and shall mean:
- 36 a. Chronic violations of wastewater discharge limits, defined here are those in which
37 sixty-six percent (66%) or more of all the measurements taken for the sample
38 pollutant parameter taken during a six (6) month period exceed by any
39 magnitude, a numeric pretreatment standard or requirement, including
40 instantaneous limits as defined in this article;
- 41 b. Technical Review Criteria (TRC) violations, as defined here as those in which
42 thirty-three percent (33%) or more of wastewater measurements are taken for
43 each pollutant parameter during a six (6) month period equals or exceeds the
44 product of the numeric pretreatment standard or requirement, including
45 instantaneous limit, as defined by this article multiplied by the applicable criteria
46 (1.4 for BOD, TSS, fats oils and grease, and 1.2 for all other pollutants except
47 pH);

- 1 c. Any other violation of a pretreatment standard or requirement as defined in this
2 article (Daily Maximum, long-term average, instantaneous limit, or narrative
3 standard) that the control authority determines has caused, alone or in
4 combination with other discharges, interference or pass through, including
5 endangering the health of POTW personnel or the general public;
- 6 d. Any discharge of a pollutant that has caused imminent endangerment to the
7 public or to the environment, or has resulted in the control authority's exercise of
8 its emergency authority to halt or prevent such a discharge;
- 9 e. Failure to meet, within ninety (90) days of the scheduled date, a compliance
10 schedule milestone contained in a wastewater discharge permit or enforcement
11 order for starting construction, completing construction, or attaining final
12 compliance;
- 13 f. Failure to provide within thirty (30) days after the due date, any required reports,
14 including baseline monitoring reports, reports on compliance with categorical
15 pretreatment standard deadlines, periodic self-monitoring reports, and reports on
16 compliance with compliance schedules;
- 17 g. Failure to accurately report noncompliance; or
- 18 h. Any other violation(s), which may include BMPs, which the control authority
19 determines will adversely affect the operation or implementation of the local
20 pretreatment program.
- 21 (l) *Supplemental enforcement actions.*
- 22 (1) *Penalties of late reports.*
- 23 a. A penalty of one hundred dollars (\$100) shall be assessed to users submitting
24 any report required by this article, discharge permit, pretreatment regulation,
25 enforcement action or any similar report, more than five (5) days beyond the
26 report due date.
- 27 b. A penalty of five hundred dollars (\$500) shall be assessed to users submitting
28 any report required under this article, more than thirty (30) days late (SNC
29 Violation).
- 30 c. Actions taken by the control authority to collect late reporting penalties shall not
31 limit the control authority's right to initiate other enforcement actions
- 32 (2) *Water supply severance.* Whenever a user has violated or continues to violate any
33 provision of this article, an individual wastewater discharge permit, or order issued
34 hereunder, or any other pretreatment standard or requirement, water service to the user
35 may be severed. Service will recommence at the user's expense, only after the user has
36 satisfactorily demonstrated its ability to comply.
- 37 (3) *Public nuisance.* A violation of any provision of this article, an individual wastewater
38 discharge permit, or order issued hereunder, or any pretreatment standard or requirement
39 is hereby declared a public nuisance and shall be corrected or abated as directed by the
40 control authority. Any person(s) creating a public nuisance shall be subject to the provisions
41 of all federal, state, and local regulations governing such nuisances, including reimbursing
42 the city for any costs incurred removing, abating, or remedying said nuisance.
- 43 (4) *Penalties for significant noncompliance.* A five hundred dollar (\$500) penalty shall be
44 assessed to any user that is determined to be in SNC. Actions taken by the control
45 authority to collect SNC penalties shall not limit the control authority's right to initiate other
46 enforcement actions that may include additional penalties for SNC violations.
- 47 (5) *Remedies nonexclusive.* The remedies provided for in this article are not exclusive. The
48 control authority may take any, all, or any combination of these actions against a
49 noncompliant user. Enforcement of pretreatment violations will generally be in accordance

1 with control authority's enforcement response plan. However, control authority may take
2 other action against any user when the circumstances warrant. Further the control authority
3 is empowered to take more than one (1) enforcement action against any noncompliant
4 user.

5 **Sec. 44-91. - Affirmative defenses to discharge violations.**

6 (a) *Act of God defense.*

- 7 (1) The act of God defense constitutes a statutory affirmative defense (V.T.C.A., Water Code §
8 7.251) in an action brought in municipal or state court. If a person can establish that an
9 event that would otherwise be a violation of a pretreatment ordinance, or a permit issued
10 under the ordinance, was caused solely by an act of God, war, strike, riot or other
11 catastrophe, the event is not a violation of the ordinance or permit. Act of God does not
12 include noncompliance to the extent caused by operational error, improperly designed
13 treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or
14 careless or improper operation.
- 15 (2) An IU who wishes to establish the act of God affirmative defense shall demonstrate, through
16 relevant evidence that:
- 17 a. An event that would otherwise be a violation of the pretreatment ordinance or a
18 permit issued under the ordinance occurred, and the sole cause of the event was
19 an act of God, war, strike, riot or other catastrophe; and
- 20 b. The IU has submitted the following information to the POTW and the city within
21 twenty-four (24) hours of becoming aware of the event that would otherwise be a
22 violation of a pretreatment ordinance or a permit issued under the ordinance (if
23 this information is provided orally, a written submission must be provided within
24 five days):
- 25 i. A description of the event, and the nature and cause of the event;
- 26 ii. The time period of the event, including dates and times or, if still
27 continuing, the anticipated time the event is expected to continue; and
- 28 iii. Steps being taken or planned to reduce, eliminate and prevent
29 recurrence of the event.
- 30 (3) *Burden of proof.* In any enforcement proceeding, the industrial user seeking to establish the
31 act of God affirmative defense shall have the burden of proving by a preponderance of the
32 evidence that an event that would otherwise be a violation of a pretreatment ordinance, or a
33 permit issued under the ordinance, was caused solely by an act of God, war, strike, riot or
34 other catastrophe.
- 35 (4) Users shall control production of all discharges to the extent necessary to maintain
36 compliance with pretreatment requirements upon reduction, loss, or failure of its treatment
37 facility until the facility is restored or an alternative method of treatment is provided. This
38 requirement applies in the situation where, among other things, the primary source of
39 power for the treatment facility is reduced, lost, or fails.

40 (b) *Bypass.*

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

- 1 (3) A user may allow any bypass to occur which does not cause pretreatment standards or
2 requirements to be violated, but only if it also is for essential maintenance to ensure
3 efficient operation.
- 4 (4) If a user knows in advance of the need for a bypass, it shall submit prior notice to the
5 control authority at least ten days before the date of the bypass, if possible.
- 6 (5) A user shall submit oral notice to the control authority of an unanticipated bypass that
7 exceeds applicable pretreatment requirements within twenty-four (24) hours from the time it
8 becomes aware of the bypass. A written submission shall also be provided within five (5)
9 days from the time the user becomes aware of the bypass. The written submission shall
10 contain a description of the bypass and its cause; the duration of the bypass, including
11 exact dates and times, and, if the bypass has not been corrected, the anticipated time it is
12 expected to continue; and steps taken or planned to reduce eliminate, and prevent
13 reoccurrence of the bypass. The control authority may waive the written report on a case-
14 by-case basis if proper oral notice has been given.
- 15 (6) Bypass is prohibited, and the control authority may take an enforcement action against a
16 user for a bypass, unless:
- 17 a. Bypass was unavoidable to prevent loss of life, personal injury, or severe
18 property damage;
- 19 b. There were no feasible alternatives to the bypass, such as the use auxiliary
20 treatment facilities, retention of untreated wastes, or maintenance during normal
21 periods of equipment downtime. This condition is not satisfied if adequate back-
22 up equipment should have been installed in the exercise of reasonable
23 engineering judgment to prevent a bypass which occurred during normal periods
24 of equipment downtime or preventive maintenance; and
- 25 c. The user submitted notices as stated herein.
- 26 (7) The control authority may approve an anticipated bypass, after considering its adverse
27 effects, if the control authority determines that it will meet the three conditions in subsection
28 (b)(6) of this section.

29 **Sec. 44-92. - Confidentiality.**

30 Information and data pertaining to an IU or other person subject to this article obtained from reports,
31 surveys, wastewater discharges, permit applications, wastewater discharge permits, monitoring
32 programs, and from city inspection, sampling and enforcement activities shall be available to the public in
33 accordance with the laws of the state of Texas, subject to the following:

- 34 (1) Such information shall be withheld from disclosure if the IU or the person subject to this
35 article makes a specific and timely request in writing and demonstrates to the satisfaction of
36 the control authority that the release of such information would divulge information,
37 processes or methods of production entitled to protection as trade secret under applicable
38 law;
- 39 (2) When timely requested and demonstrated that such information should be held confidential,
40 the portions of the information that might disclose trade secrets or secret processes shall
41 not be made available for inspection by the public, but shall be made available upon
42 request to governmental agencies for uses related to the TPDES or pretreatment and
43 monitoring program and in enforcement proceedings involving the person furnishing the
44 information;
- 45 (3) Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR
46 2.302 will not be recognized as confidential information and will be made available to the
47 public without restriction.
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Sec. 44-94. - Public participation.

III.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

Alternative 1.

READ, PASSED, and ADOPTED on first reading this _____ day of _____, 2020.

1 Alternative 2.

2 **READ** and **APPROVED** on first reading this the ____ day of
3 _____, 2020.

4 **READ, APPROVED** and **ADOPTED** on second reading this the ____ day of
5 _____, 2020.

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9

CRAIG MORGAN, Mayor
City of Round Rock, Texas

10
11
12 ATTEST:
13

14 _____
15 SARA L. WHITE, City Clerk