

## **AGREEMENT REGARDING WHOLESALE WASTEWATER SERVICE**

**THIS AGREEMENT REGARDING WHOLESALE WASTEWATER SERVICE** (“Agreement”) is made by and between the City of Pflugerville, a Texas home rule city (the “City”) and SWWC Utilities, Inc. d/b/a Windermere Utility Co., Inc. (the “Utility”).

### **RECITALS**

- A. The Utility desires City’s provision of wholesale wastewater services as set forth herein (“Service”).
- B. The City is willing to provide Service to the Utility.
- C. The City and Utility desire to set forth in writing the terms and conditions for wholesale wastewater service from the City to the Utility.

### **AGREEMENT**

**NOW, THEREFORE**, in consideration of the foregoing premises and the mutual promises and agreements of the parties set forth below and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

#### **I. WHOLESALE WASTEWATER SERVICE FROM PFLUGERVILLE FOR SERVICE AREA**

**1.01 Agreement to Provide Wholesale Wastewater Service.** Subject to the terms and conditions of this Agreement and all duly adopted regulations and ordinances of the City or any governing authority having jurisdiction over the Service, the City agrees to provide Service to Utility. Subject to the terms and conditions of this Agreement, the Utility accepts the provision of Service from the City.

**1.02 Description of Property to Receive Service from the City.** The Service provided under this Agreement shall include the tracts of land containing an area of approximately 145 LUEs, more or less, as shown on **Exhibit “A”** attached hereto (the “Service Area”).

**1.03 Maximum Limit of Service From the City.** The Service from the City to the Utility for the Service Area will be limited to a maximum of 145 Living Unit Equivalents. As utilized herein, the term “Living Unit Equivalent” or “LUE” means a unit of measurement representing the quantity of water consumed and wastewater generated on an average daily basis from a single-family, detached residence of average size and occupancy or whatever definition is written in the City Ordinances at the time that this Agreement is interpreted. Nothing herein shall prevent the parties from contracting for or agreeing to additional wastewater service pursuant to separate written agreements, however, neither party is obligated to enter into such separate agreements.

**1.04 Minimum Criteria for Service.** Wastewater service provided by the City to the Utility for the Service Area shall be sufficient to collect, transport, and treat all wastewater from the Service Area subject to the maximum capacity limitation set forth in Section 1.03 above, the further terms and conditions of this Agreement, and all applicable rules and regulations of governmental agencies having jurisdiction over the services provided.

**1.05 Conditions Precedent to Service.** The Parties specifically agree that the commencement of Service to the Service Area shall be subject to the following conditions precedent:

(i) The lands to be furnished service have been final platted by all governmental entities with relevant jurisdiction, unless a plat is not required by applicable laws and ordinances;

(ii) Approval of this Agreement by the Pflugerville City Council;

(iii) final inspection and approval by City of the interconnection facilities (“Interconnection Facilities”) required to transport wastewater to the agreed points of connection, as defined in Section 1.06 of this Agreement, to the City’s System;

(iv) payment of reasonable, actual and documented fees, including inspection fees to the City associated with providing Service to the Service Area;

(v) written authorization from the City Manager acknowledging that Utility has satisfied all conditions and requirements of this Agreement for connection to the City’s System and commencement of Service, and that Service to Utility shall commence, which authorization shall not be unreasonably withheld, delayed or conditioned.

(b) The City shall commence Service to Utility within eight business days after satisfaction of the conditions set forth in this Section.

**1.06 Manner of Connection.** The applicable part of Utility’s wastewater collection system for the Service Area (“Internal Facilities”) will be connected to the City System by the Utility’s construction (or construction by a developer of lands in the Utility) of the Interconnection Facilities at the Points of Connection. The Utility will ensure that the Interconnection Facilities and Internal Facilities are constructed by or on behalf of the Utility in compliance with the approved plans and specifications, with such plans and specifications being designed in accordance with applicable regulations and construction standards of the City and the Texas Commission on Environmental Quality (“TCEQ”). In the event that there is any conflict between these regulations, standards and specifications, the more stringent regulations, standards and specifications will apply.

**1.07 Minimization of Inflow and Infiltration.** The Utility agrees to have the Utility operator inspect, maintain, monitor and operate all Internal Facilities and Interconnection Facilities as reasonably necessary for the purpose of minimizing inflow and infiltration into the Internal Facilities and the Interconnection Facilities and the quantity of wastewater that the City must process for as part of the Service.

**1.08 Curtailment of Service.** Utility agrees that, if wastewater service is curtailed within the City or to other customers of the City's System, the City may impose a like curtailment on Service delivered to Utility. The City shall impose such curtailments in a nondiscriminatory fashion. The parties agree that it will not be a breach of this Agreement if the City curtails Service completely in the event of a maintenance operation or emergency for a reasonable period necessary to complete such maintenance operations or repairs or respond to an emergency circumstance. City shall use reasonable efforts to minimize the duration of the period of curtailment and, if the curtailment is due to no fault of the Utility, shall pay for or provide facilities and equipment necessary to pump and haul all Utility wastewater to alternate treatment facilities ("Pump and Haul") during the curtailment period. If the curtailment occurs due to some or sole fault of the Utility, then the Utility shall be responsible for paying for Pump and Haul during the curtailment period to the extent of Utility's fault.

**1.09 Monthly Billing.** Wastewater billings during the provision of Service will be determined based on the number of wastewater LUEs connected to the Internal Facilities with respect to the Service Area.

(a) Each monthly bill shall contain a statement of the number of LUEs connected during the billing period, the rate on which the bill is calculated, and any other fees or administrative charges included in the bill. The Utility will timely make payment to the City in accordance with the City's utility service requirements and regulations as amended from time to time.

(b) The City's wholesale wastewater rates may be subject to change from time to time by the City Council of the City as outlined in Section 1.11 below; provided, however, the initial rate under this Agreement is \$50.73 per LUE per month, and the monthly rate shall not fall below the \$50.73 per month per LUE rate.

(c) Notwithstanding anything to the contrary herein, the City shall give sixty (60) days advance written notice of any rate change to Utility. If the rate hereunder increases by more than 10% at any given time, Utility may terminate this Agreement by providing at least thirty (30) days written notice to the City.

**1.10 Pflugerville Policies and Ordinances Applicable to Service.** Unless otherwise provided in this Agreement, the Service provided from the City to the Service Area under this Agreement shall not be unreasonably discriminatory and shall be consistent with the policies and ordinances of the City applicable to the Service.

**1.11 Rates Sufficient to Cover Pflugerville's Costs.** The monthly rate stated in Section 1.09 is currently sufficient to cover all of the City's cost of treatment of the wastewater from the Service Area. Should the City determine through a cost-of-service study that a rate increase is necessary, the Utility agrees to establish retail rates sufficient to cover any and all of the City's costs of treatment of the wastewater from the Service Area. The City may initiate a cost-of-service study on an annual basis.

**1.12 Service Not Assignable or Transferable.** The Utility may not assign this Agreement, in whole or in part, to property outside of the Service Area.

**II.**  
**[RESERVED]**

**III.**  
**TERM AND TERMINATION**

**3.01 Term.** Unless terminated by mutual agreement of the parties hereto or as otherwise provided herein, this Agreement will continue in full force and effect for a period of ten (10) years from the Effective Date hereof. The Utility may renew this Agreement for additional ten (10) year terms by providing written notice of renewal to the City not less than one year prior to the expiration of the initial or any renewal term.

**3.02 Termination.** If either Party breaches any term or condition of this Contract, the non-breaching Party may provide the breaching Party with a notice of the breach within sixty (60) days of discovery of the breach by the non-breaching Party. Upon notice of breach, the breaching Party shall have sixty (60) days to cure the breach. If the breaching Party does not cure the breach within the sixty (60) days, the non-breaching Party shall have all rights at law and in equity, including the right to enforce specific performance of this Contract by the breaching Party, the right to perform the obligation in question and to seek restitution for all damages incurred in connection therewith, and/or the right to terminate this Agreement.

**3.03 Remedies Upon Default.** It is not intended hereby to specify (and this Agreement will not be considered as specifying) an exclusive remedy for a default by any party hereunder, but all remedies existing at law or in equity, including specific performance and mandamus, will be cumulative and available to the non-defaulting party in the event of a default by any other party as to its duties or obligations hereunder.

**3.04 No Waiver Implied.** No waiver or waivers of any breach or default (or any breaches or defaults) by any party hereto of any term, covenant, condition, or liability hereunder, or of performance by any other party of any duty or obligation hereunder shall be deemed or construed to be a waiver of subsequent breaches or defaults of any kind under any circumstances.

**IV.**  
**INDUSTRIAL DISCHARGE PROHIBITED**

**4.01 Industrial Discharges and Prohibited Wastes.**

(a) Utility acknowledges that the City has the responsibility and authority under federal and state law to establish:

(i) types and quantities of discharges that are prohibited for entry into the City's System, with the current types and quantities of prohibited discharges being more particularly described in Ordinances 1508-21-08-24 and 1509-21-08-24, attached as Exhibit B hereto ("IPP and FOG Ordinances");

(ii) discharge prohibitions for certain substances, being more particularly described in the IPP and FOG Ordinances;

(iii) pretreatment, permitting, monitoring, and other requirements for persons who discharge prohibited substances; and

(iv) measures to protect the City's System, including, without limitation, any portion of the sanitary sewer, and any receiving stream receiving a discharge of wastewater effluent from harmful discharges.

(b) The IPP and FOG Ordinances are subject to the amendment, modification, revision, and/or restatement by the City Council of the City of Pflugerville. If the IPP and FOG Ordinances are altered in any way by the City Council of the City of Pflugerville, the updated version of the IPP and FOG Ordinances will apply to this Agreement without requiring a written amendment.

(c) The Utility agrees that the Service Area may be used and improved solely for residential uses and commercial uses that generate only normal domestic wastewater, as determined by applicable policies and regulations of the City. No industrial uses will be permitted. Notwithstanding any provision herein to the contrary, however, no owner of any portion of the Service Area will be responsible or liable for any breach or violation of the covenants set forth hereunder which occurs outside of the portion of the Service Area owned by such owner.

(d) Utility agrees to seek injunctive or other appropriate relief to prohibit wastewater discharges that Utility becomes aware will damage or pass through City's System without adequate treatment, interfere with the treatment system, or otherwise pose an imminent danger to public health, or when the specific person or industry is not making sufficient progress toward implementing an approved pretreatment system.

(e) The parties agree that they will not construe this Agreement to limit, modify, restrict, or otherwise alter the responsibility or authority of the City to enforce its ordinances governing the pretreatment, monitoring, and discharge of wastewater containing industrial waste or other prohibited waste with respect to Utility when and as such action is deemed necessary by the City.

## V. [RESERVED]

## VI. GENERAL PROVISIONS

**6.01 Authority.** This Agreement is made pursuant to the authority conferred in Texas Local Government Code, Section 552.001.

**6.02 Liability of Utility.** Liability for damages to third persons arising from the reception, transportation, delivery, and disposal of all wastewater discharged shall remain with Utility to the Points of Connection. With the exception of incompatible wastes or the delivery by Utility of prohibited wastes or wastewater that is corrosive or otherwise injurious to the City's System or to persons or property and that are not in compliance with law or the terms hereof, upon passing the Points of Connection, liability for damages to third persons not caused by the Utility shall pass to the City. Incompatible wastes are substances not amenable to wastewater treatment

processes that will damage or interfere with the operation of the publicly owned treatment works or any portion of the City's System, including interference with the use or disposal of municipal sludge as well as pollutants that will pass through the treatment works unchanged by the treatment processes.

**6.03 Liability of the City.** Subject to the foregoing, the City shall bear the responsibility as between the parties for the proper reception, transportation, treatment, and disposal of all wastewater properly delivered to the Points of Connection by Utility. The parties agree that this Agreement does not absolve Utility of liability for damages to the City's System or to third persons arising from the delivery by Utility of prohibited wastes or wastewater that is corrosive or otherwise damaging to the City's System or to persons or property and that are not in compliance with law or the terms hereof.

**6.04 Severability.** If any word, phrase, clause, sentence, paragraph, section or other portion of this Agreement is held to be invalid for any reason by a court or agency of competent jurisdiction, the remainder of this Agreement shall not be affected thereby and this Agreement shall be construed as if such invalid portion had never been contained herein and the provisions of this Agreement are expressly deemed severable for this purpose.

**6.05 Waiver of Sovereign Immunity.** Without waiving any other rights or immunities provided under the Texas Local Government Code and other laws of the state of Texas, City acknowledges that Texas Local Government Code §271.152 waives, and shall waive, City's sovereign immunity for the purposes of adjudicating a claim for breach of the Agreement and any of the Agreement's amendments, subject to the terms and conditions of subchapter I of chapter 271 of the Texas Local Government Code.

**6.06 Cooperation.** The parties hereto agree to cooperate at all times in good faith to effectuate the purposes and intent of this Agreement.

**6.07 Entire Agreement.** This Agreement contains the entire agreement of the parties and supersedes all prior or contemporaneous understandings or representations, whether oral or written, respecting the subject matter hereof.

**6.08 No Presumption Against Drafter.** The parties understand, agree, and acknowledge that: (i) this Agreement has been freely negotiated by both parties; and (ii) that, in the event of any controversy, dispute, or contest over the meaning, interpretation, validity, or enforceability of this Agreement, or any of its terms or conditions, there shall be no inference, presumption, or conclusion drawn whatsoever against either party by virtue of that party having drafted this Agreement or any portion thereof.

**6.09 Amendments.** Any amendment hereof must be in writing and shall be effective only if signed by the authorized representatives of the City and the Utility.

**6.10 Effect of Force Majeure.** If either party is rendered unable, wholly or in part, by force majeure to carry out its obligations under this Agreement, it is agreed that each party shall give written notice of such force majeure to the other party as soon as commercially reasonable after the occurrence of the cause relied on and shall, therefore, be relieved of its obligations, so far as they are affected by such force majeure, during the continuance of any

inabilities so caused, but for no longer. The term “force majeure” includes acts of God, strikes, lockouts or other industrial disturbances, shortage of supply or supply chain issues, criminal conduct or sabotage, acts of the public enemy, orders of the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, pandemics, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraints of government and civil disturbances, explosions, breakage, or accidents to equipment, pipelines, or canals, partial or complete failure of water supply or wastewater systems, and any other inabilities of either party, whether similar to those enumerated or otherwise, that are not within the control of the party claiming the inability and that could not have been avoided by the exercise of due diligence. It is understood and agreed that the settlement of strikes, lockouts and other industrial or labor disturbances shall be entirely within the discretion of the party having the difficulty and that the requirement that any force majeure be remedied with all reasonable dispatch shall not require the settlement of strikes, lockouts or other industrial or labor disturbances by acceding to the demands of the opposing party if the settlement is unfavorable to it in the judgment of the party having the difficulty. Force majeure shall relieve the City from liability to the Utility or any customer of the Utility for failure to provide wastewater service due to an inability covered by this Article. Force majeure shall not relieve the Utility of its obligation to make payment to the City for Service provided under this Agreement.

**6.11 No Amendment of Other Agreements.** This Agreement is separate from and shall not constitute an amendment or modification of any other agreement between the parties.

**6.12 No Third Party Beneficiaries.** This Agreement shall inure only to the benefit of the parties hereto and third persons not privy hereto shall not, in any form or manner, be considered a third party beneficiary of this Agreement.

**6.13 Assignment** The rights and obligations of the Utility arising under this Agreement shall only be assignable if (i) the assignee assumes all of the obligations of the Utility hereunder in writing, and (ii) written notice of the assignment, together with a fully executed copy of the written assignment and assumption document, is furnished to the City and the Utility.

**6.14 Applicable Law.** This Agreement shall be construed in accordance with Texas law.

**6.15 Venue.** Venue for any action arising hereunder shall be in Travis County, Texas.

**6.16 Notices.** Any notice required or permitted under this Agreement must be in writing. Any notice required by this Agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, electronic mail, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

For the purposes of this Agreement, notice will be delivered to:

**THE UTILITY:**

SWWC Utilities, Inc. d/b/a Windermere Utility Co., Inc.  
1812 Centre Creek Drive, Suite 100  
Austin, TX 78754  
Email: tim.williford@nexuswg.com

**CITY OF PFLUGERVILLE:**

City Manager  
City of Pflugerville  
P. O. Box 589  
Pflugerville, Texas 78691  
Email: citymanager@pflugervilletx.gov

**6.17 Exhibits.** The following exhibits are attached to this Agreement and incorporated herein by reference:

Exhibit A - Description of the Service Area  
Exhibit B - IPP and FOG Ordinances

**6.18 Counterparts.** This Agreement may be executed simultaneously in two (2) or more counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument. Each party represents and warrants that it has the full right, power and authority to execute this Agreement.

**6.19 Effective Date.** This Agreement shall be effective from and after the date of due execution hereof by all parties and approved by the City Council of the City of Pflugerville ("Effective Date").



EXECUTED in multiple copies, to be effective upon the last date of execution below, each of which shall constitute an original:

**SWWC Utilities, Inc. d/b/a Windermere Utility Co., Inc.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

**CITY OF PFLUGERVILLE:**

By: \_\_\_\_\_  
Sereniah Breland, City Manager  
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Trista Evans, City Secretary

**EXHIBIT “A”**

**SERVICE AREA**



**EXHIBIT B**  
**IPP AND FOG ORDINANCES**

## ARTICLE IV INDUSTRIAL WASTES

### § 53.040. GENERAL PROVISIONS.

#### (A) Purpose and Policy.

- (1) This subchapter sets forth uniform requirements for users of the publicly owned treatment works for the city and enables the city to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the general pretreatment regulations (title 40 of the Code of Federal Regulations [CFR] part 403). The objectives of this subchapter are:
  - (a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;
  - (b) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;
  - (c) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
  - (d) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;
  - (e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and
  - (f) To enable the city to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.
- (2) This subchapter shall apply to all Users of the publicly owned treatment works. The subchapter authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

#### (B) Administration. Except as otherwise provided herein, the pretreatment coordinator shall administer, implement, and enforce the provisions of this subchapter. Any powers granted to or duties imposed upon pretreatment coordinator may be delegated by the pretreatment coordinator to a duly authorized city employee.

#### (C) Abbreviations. The following abbreviations, when used in this subchapter, shall have the designated meanings:

BOD - Biochemical Oxygen Demand  
BMP - Best Management Practice  
BMR - Baseline Monitoring Report  
CBOD - Carbonaceous Biochemical Oxygen Demand  
CFR - Code of Federal Regulations  
CIU - Categorical Industrial User  
COD - Chemical Oxygen Demand  
EPA - U.S. Environmental Protection Agency  
gpd - gallons per day  
IU - Industrial User  
mg/l - milligrams per liter  
NPDES - National Pollutant Discharge Elimination System  
NSCIU - Non-Significant Categorical Industrial User  
POTW - Publicly Owned Treatment Works  
RCRA - Resource Conservation and Recovery Act  
SIU - Significant Industrial User  
SNC - Significant Noncompliance  
TSS - Total Suspended Solids  
U.S.C. - United States Code

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

ACT OR "THE ACT". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. Section 1251 et seq.

APPROVAL AUTHORITY. The City of Pflugerville, Texas.

AUTHORIZED OR DULY AUTHORIZED REPRESENTATIVE OF THE USER.

- (1) If the User is a corporation:

- (a) The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- (b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can

ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

BIOCHEMICAL OXYGEN DEMAND OR BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

BEST MANAGEMENT PRACTICES OR BMPS. The Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in §53.041. 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.

BYPASS. The intentional diversion of wastestreams from any portion of an IU's pretreatment facility.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal (also called house lateral and house connection).

CARBONACEOUS BIOCHEMICAL OXYGEN DEMAND OR CBOD. The quantity of oxygen in the absence of nitrogen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l)

CATEGORICAL INDUSTRIAL USER (CIU). An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405 471.

CITY. The City of Pflugerville, Texas.

CITY MANAGER. The Representative of the City who is charged with certain duties and responsibilities by this subchapter, including signatory responsibility. The term also means a Duly Authorized Representative of the City Manager.



CHEMICAL OXYGEN DEMAND OR COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

COMPOSITE SAMPLE. A sample formed either by continuous sampling or by mixing discrete samples. If discrete sampling is employed, at least 12 aliquots should be composited. The sample may be composited either as a time composite sample: composed of discrete sample aliquots collected at constant time intervals providing a sample irrespective of stream flow; or as a flow proportional composite sample: collected either as a constant sample volume at time intervals proportional to flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant time interval between the aliquots. For wastewater discharges consisting of a single batch discharge in a 24-hour period, a grab sample of the batch discharge may be used to represent the 24-hour composite quality of the wastewater, as long as the batch is mixed prior to sample collection. For wastewater discharges consisting of two or more batch discharges in a 24-hour period, the 24-hour composite quality of the wastewater may be determined via compositing of one grab sample collected from the discharge of each batch, as long as each batch is mixed prior to sample collection.

CONTROL AUTHORITY. The City of Pflugerville, Texas.

CONTROL MANHOLE. A manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

CONTROL POINT. A point of access to a course of discharge before the discharge mixes with other discharges in the public sewer.

DISCHARGER. Any person who discharges or introduces anything other than normal domestic sewage into the POTW. The term includes owners and/or occupants of the premises connected to and discharging waste or wastewater into the POTW.

DAILY MAXIMUM. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

DAILY MAXIMUM LIMIT. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

END OF PIPE. The point where the wastewater is discharged to the POTW. TBLs are assessed at the end of pipe, which is after any pretreatment unit. Sampling locations are designated in individual industrial wastewater discharge permits.

END OF PROCESS. A sample point at the end of an industrial process that is subject to federal categorical pretreatment standards. Categorical limits are assessed at the end of process sampling location as designated by individual industrial wastewater discharge permits.

ENVIRONMENTAL PROTECTION AGENCY OR EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

EXISTING SOURCE. Any source of discharge that is not a "New Source."

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

GRAB SAMPLE. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

GREASE (ALSO INCLUDES FATS, OILS, AND GREASE). Fatty acids, soaps, fats, waxes, petroleum products, oil, and any other material which is extractable by hexane or freon solvent from an acidified sample, and which is not volatilized during evaporation of the solvent. Fats, oils, and grease (FOG): Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR Part 136, as may be amended from time to time. All are sometimes referred to herein as “grease” or “greases.”

GREASE TRAP (OR GREASE INTERCEPTOR, OIL SEPARATOR). A device designed to use differences in specific gravities to separate and retain light density liquids, waterborne fats, oils, and greases prior to the wastewater entering the sanitary sewer collection system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the interceptor and entering the sanitary sewer collection system. Oil Separator: A watertight receptacle designed and constructed to intercept and prevent the passage of petroleum-based oil, grease wastes and solids into the sanitary sewer system to which the receptacle is directly or indirectly connected.

HAULED WASTEWATER. Wastewater introduced into the POTW that has been transported by truck, rail, or any other transport, as distinguished from wastewater that flows only from the original generating customer directly into the POTW. Hauled wastewater typically includes septic tank waste.

HAZARDOUS WASTE. The waste containing pollutants listed in 40 CFR 261.31, 261.32, or 261.33.

HOLD TIME. The time starting from when a sample is taken until it is analyzed. For composite samples the hold time starts when the last aliquot is sampled.

INDIRECT DISCHARGE OR DISCHARGE. The introduction of pollutants into the POTW from any nondomestic source.

INDUSTRIAL DISCHARGE OR INDUSTRIAL WASTEWATER OR INDUSTRIAL WASTE OR PROCESS WASTEWATER. Waterborne solids, liquids, or gaseous waste resulting from and discharged, permitted to flow, or escaping from any industrial, manufacturing, or food-processing operation or process, or from the development of any natural resource, or any mixture of these with water or domestic sewage. (The term is generally synonymous with “non-domestic waste”).

INSTANTANEOUS LIMIT. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

INTERFERENCE. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its

sludge processes, use or disposal; and therefore, is a cause of a violation of the City's TPDES permit or of the prevention of sewage sludge use or disposal in compliance.

LOCAL LIMIT. Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions.

MEDICAL WASTE. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

MILLIGRAM PER LITER OR MG/L. The same as parts per million and is a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

MONTHLY AVERAGE. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

MONTHLY AVERAGE LIMIT. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

NELAP. The National Environmental Laboratory Accreditation Program developed and adopted by the National Environmental Laboratory Accreditation Conference, which was established by state and federal officials in 1995 as an accreditation standards-setting organization for environmental laboratories.

NEW SOURCE.

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
  - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located;
  - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
  - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.
- (2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1)(b)

or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

- (3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
- (a) Begun, or caused to begin, as part of a continuous onsite construction program - any placement, assembly, or installation of facilities or equipment; or significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

NONCONTACT COOLING WATER. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

NORMAL WASTEWATER OR NORMAL DOMESTIC WASTEWATER. Wastewater excluding industrial wastewater discharged by a person into sanitary sewers and in which the average concentration of Total Suspended Solids (TSS) is not more than 250 mg/l; 5-day Biochemical Oxygen Demand (BOD) is not more than 250 mg/l; Chemical Oxygen Demand (COD) is not more than 450 mg/L; Total Kjeldahl Nitrogen is not more than 50 mg/l and Total Phosphorus is not more than 8 mg/l.

PASS THROUGH. 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 City's TPDES permit, including an increase in the magnitude or duration of a violation.

PERMIT OR DISCHARGE PERMIT. A wastewater discharge permit issued to a SIU, or CIU to allow a discharge into the POTW.

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

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

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

PRETREATMENT. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by

physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

PRETREATMENT COORDINATOR. The person designated by the City to supervise industrial discharge of non-domestic wastes to the POTW, and who is charged with certain duties and responsibilities by this subchapter. The term also means a Duly Authorized Representative of the City.

PRETREATMENT REQUIREMENTS. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

PRETREATMENT STANDARDS OR STANDARDS. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

PROHIBITED DISCHARGE STANDARDS OR PROHIBITED DISCHARGES. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in §53.041 of this subchapter.

PUBLICLY OWNED TREATMENT WORKS OR POTW. Any treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

SANITARY SEWER. A public sewer that conveys domestic wastewater or industrial wastes or a combination of both, and into which stormwater, surface water, groundwater, and other unpolluted wastes are not intentionally passed.

STANDARD METHODS. The examination and analytical procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater as prepared, approved, and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

SEPTIC TANK WASTE. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

SEWAGE. Human excrement and gray water (household showers, dishwashing operations, etc.).

SHALL AND MAY. The term “shall” describes mandatory actions, and the term “may” describe permissive (i.e., discretionary) actions.

SIGNIFICANT INDUSTRIAL USER (SIU)

- (1) An Industrial User subject to categorical Pretreatment Standards; or
- (2) An Industrial User that:
  - (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

- (b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
- (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

SIGNIFICANT NONCOMPLIANCE. A compliance status assigned to industrial users that meet s any of the following:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits.
- (2) Technical Review Criteria violations defined as those in which thirty three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement, including instantaneous limits multiplied by the applicable TRC (TRC= 1.4 for BOD, TSS, fats, oils, and grease and 1.2 for all other pollutants except pH).
- (3) Any other violation of a Pretreatment Standard or Requirement (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other Discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public).
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- (5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
- (6) Failure to provide within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.
- (7) Failure to accurately report non-compliance; or any other violation or group of violations, which may include a violation of Best Management Practices, which the City determines will adversely affect the operation or implementation of the local pretreatment program.

SLUG LOAD OR SLUG DISCHARGE. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in §53.041 of this subchapter. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a

reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

STORMWATER. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

SURCHARGE OR INDUSTRIAL WASTEWATER SURCHARGE. A charge in addition to the sewer charge that is applied to those wastestreams whose pollutant concentrations are in excess of normal domestic sewage, including but not limited to BOD, TSS, Ammonia-Nitrogen and Total Phosphorus.

TEXAS COMMISSION OR ENVIRONMENTAL QUALITY OR TCEQ. Approval Authority for the State of Texas.

TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM (TPDES) PERMIT. A permit issued by TCEQ to the Control Authority or the City, pursuant to Section 402 of the Act (33 USC 1342) and Chapter 26 of the Texas Water Code that regulates discharges of wastes into water in the state.

TOTAL SUSPENDED SOLIDS OR SUSPENDED SOLIDS. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

USER OR INDUSTRIAL USER. A source of indirect discharge.

WASTEWATER LIQUID. A combination of water carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

WASTEWATER TREATMENT PLANT OR TREATMENT PLANT. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

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

(Ordinance 1509-21-08-24, passed 8-24-21)

## **§ 53.041. GENERAL SEWER USE REQUIREMENTS.**

### **(A) Prohibited Discharge Standards.**

- (1) General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.
- (2) Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
  - (a) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade;

- (b) Wastewater having a pH less than 5.5 or more than 9.5, or otherwise causing corrosive structural damage to the POTW or equipment;
- (c) Solid or viscous substances at temperatures between 32° and 150° F. (0° and 65° C.) in amounts which will cause obstruction of the flow in the POTW resulting in Interference;
- (d) Pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW;
- (e) Wastewater having a temperature greater than 150 degrees F (50 degrees C), or which will inhibit biological activity in the treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);
- (f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;
- (g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (h) Trucked or hauled pollutants, except at discharge points designated by the Pretreatment Coordinator in accordance with §53.042(D) of this subchapter;
- (i) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (j) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's TPDES permit;
- (k) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State regulations;
- (l) Stormwater and Other Unpolluted Drainage:
  - (i) No person may discharge stormwater to public sanitary sewers;
  - (ii) Unpolluted stormwater, surface water, groundwater, roof runoff or subsurface drainage;
  - (iii) Unpolluted cooling water or non-contact cooling water;
  - (iv) Unpolluted industrial process waters; or
  - (v) Other unpolluted drainage.
  - (vi) In compliance with the Texas Water Quality Act, Tex. Water Code, §§ 26.001 et seq., and other statutes, the approving authority may designate storm sewers



and other watercourses into which unpolluted drainage described in subsection (A) of this section may be discharged.

- (m) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
  - (n) Medical Wastes, except as specifically authorized by the Pretreatment Coordinator in an individual wastewater discharge permit;
  - (o) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;
  - (p) Detergents, surface active agents, or other substances which that might cause excessive foaming in the POTW;
  - (q) Fats, oils, or greases (FOG) of animal or vegetable origin in concentrations greater than 200 mg/l and petroleum-based oils and greases in concentrations greater than 100 mg/L;
  - (r) Organic toxics pollutants introduced intentionally or accidentally into the POTW including solvents, paints, thinners, degreasers, sealants, etc.;
  - (s) Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.
  - (t) Any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.
  - (u) All waste, wastewater, or other substance containing phenols, hydrogen sulfide, or other taste-and-odor producing substances, shall conform to concentration limits established by the approving authority. After treatment of the composite wastewater, concentration limits may not exceed the requirements established by state, federal, or other agencies with jurisdiction over discharges to receiving waters;
  - (v) Chlorides in concentrations greater than 250 mg/l; Total Dissolved Solids (TDS) greater than 1,000 mg/l; and Sulfates greater than 330 mg/l.
  - (w) Garbage: No person may discharge garbage into public sewers unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than one-half inch in any dimension are prohibited. The City is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater.
- (B) National Categorical Pretreatment Standards. Users must comply with the Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.
- (1) Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City may impose equivalent concentration or mass limits in accordance with this Section.

- (2) When the limits in a Categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the City may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
  - (3) When wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the City shall impose an alternate limit by applying the Combined Waste Stream Formula in accordance with 40 CFR § 403.6(e).
  - (4) When a Categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an IU may request that the City convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the sole discretion of the City. To be eligible for equivalent mass limits, the IU must meet the requirement set forth in 40 CFR §403.6(c)(5).
  - (5) An IU subject to equivalent mass limits must meet the requirements of 40 CFR § 403.6(5)(ii)(A) through (D).
  - (6) When developing equivalent mass limits, the City will follow the procedures outlined in 40 CFR §403.6(c)(5) through (9).
- (C) State Pretreatment Standards. Users must comply with Title 30 Texas Administrative Code (TAC) 315.1 General Pretreatment Regulations for Existing and New Sources of Pollution.
- (D) Local Limits.
- (1) The following pollutant limits are established to protect against pass through and interference. No person shall discharge or cause or permit to be discharged, wastewater containing in excess of the following discharge limits.

Pollutant	Discharge Limit (mg/L)
Arsenic	1.78
Barium	5.00
Cadmium	0.10
Chromium	5.00
Copper	1.00
Cyanide	0.65
Lead	2.94
Manganese	1.00
Mercury	0.02
Molybdenum	9.69

<b>Pollutant</b>	<b>Discharge Limit (mg/L)</b>
Nickel	7.58
Selenium	0.15
Silver	0.77
Zinc	5.38

- (2) The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Pretreatment Coordinator may impose mass limitations in addition to the concentration-based limitations above.
- (3) These limits represent a maximum daily discharge for constituents in the form of compounds or elements, in solution or suspension. These limits are based upon a method of allocating pollutant loadings which has been approved by the EPA and incorporated into the city's approved pretreatment program. No discharge into the city's sewer system may contain concentrations greater than these limits. These limits apply at a point where the industrial user's waste enters the city sewer. Unless otherwise specified by the City, compliance with these limits will be assessed by the collection and analysis of a 24-hour composite sample of the wastewater discharge.
- (4) These limits were developed for the POTW in accordance with paragraph 403.5(c) and shall be deemed Pretreatment Standards for the purposes of section 307(d) of the Act.

(E) City's Right of Revision.

- (1) The City reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this subchapter.
- (2) If national Pretreatment Standards, categorical or otherwise, more stringent than the discharge limits prescribed in this subchapter are promulgated by the EPA for certain industries, the more stringent national Pretreatment Standards will apply to the affected industrial user. A violation of the more stringent national Pretreatment Standards will also be considered a violation of this Subchapter.
- (3) If more stringent Pretreatment Standards, Texas surface water quality standards, or TPDES permit conditions are promulgated, the City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent Standards or requirements on discharges to the POTW.
- (4) Authority to regulate. The City may establish regulations, not in conflict with this Subchapter or other laws, to control the disposal and discharge of industrial waste into the wastewater system and to insure compliance with the city's pretreatment enforcement program with all applicable pretreatment regulations promulgated by the EPA. The regulations established shall, where applicable, be made part of any discharge permit issued to an industrial user by the Pretreatment Coordinator.

- (F) Dilution. No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The City may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ordinance 1509-21-08-24, passed 8-24-21)

#### **§ 53.042. PRETREATMENT OF WASTEWATER.**

- (A) Pretreatment Facilities. Users shall provide wastewater treatment as necessary to comply with this subchapter and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in §53.041 of this subchapter within the time limitations specified by EPA, the State, or the City, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to Pretreatment Coordinator for review and shall be acceptable to the Pretreatment Coordinator before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this subchapter.
- (B) Additional Pretreatment Measures.
- (1) Whenever deemed necessary, the Pretreatment Coordinator may require Users to restrict their discharge, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this subchapter.
  - (2) The Pretreatment Coordinator may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.
  - (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Pretreatment Coordinator, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. The type and capacity; location; frequency of inspection, cleaning and repair shall be in accordance with City's Fats, Oils and Grease Management Ordinance in §53.074(B).
  - (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- (C) Accidental Discharge/Slug Discharge Control Plans. The Pretreatment Coordinator shall evaluate within one year of being designated as a SIU, whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges.

The City shall keep records of the activities associated with slug control evaluation. The Pretreatment Coordinator may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Pretreatment Coordinator of any accidental or Slug Discharge, as required by §53.045(G) of this subchapter; and
- (4) Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(D) Hauled Wastewater.

- (1) Septic tank waste may be introduced into the POTW only at locations designated by the Pretreatment Coordinator, and at such times as are established by the Pretreatment Coordinator. Such waste shall not violate §53.041 of this subchapter or any other requirements established by the City. The Pretreatment Coordinator may require septic tank waste haulers to obtain individual wastewater discharge permits.
- (2) The Pretreatment Coordinator may require haulers of industrial waste to obtain individual wastewater discharge permits. The Pretreatment Coordinator may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The Pretreatment Coordinator also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this subchapter.
- (3) Industrial waste haulers may discharge loads only at locations designated by Pretreatment Coordinator. No load may be discharged without prior consent of Pretreatment Coordinator. Pretreatment Coordinator may collect samples of each hauled load to ensure compliance with applicable Standards. Pretreatment Coordinator may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (4) Industrial waste haulers must provide a waste tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
- (5) Previously Issued Permits for Haulers: All permits issued by the City to septic tank waste haulers pursuant to the predecessor of this Subchapter shall remain valid until

their expiration or until their revocation pursuant to the ordinance under which they were issued.

(Ordinance 1509-21-08-24, passed 8-24-21)

### **§ 53.043. WASTEWATER DISCHARGE PERMITS.**

- (A) Wastewater Analysis. When requested by the Pretreatment Coordinator, a User must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The City has promulgated a Permit Application form for this purpose and may periodically require Users to update this information.
- (B) Wastewater Discharge Permit Requirement.
- (1) No SIU shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Pretreatment Coordinator, except that a SIU that has filed a timely application pursuant to §53.043(C) of this subchapter may continue to discharge for the time period specified therein.
  - (2) The Pretreatment Coordinator may require other Users to obtain wastewater discharge permits as necessary to carry out the purposes of this subchapter.
  - (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this subchapter and subjects the wastewater discharge permittee to the sanctions set out in §53.049 and §53.050 of this subchapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.
- (C) Wastewater Discharge Permitting: Existing Connections. Any User required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this subchapter and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the Pretreatment Coordinator for a wastewater discharge permit in accordance with §53.043(E) of this subchapter, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this subchapter except in accordance with a wastewater discharge permit issued by the Pretreatment Coordinator.
- (D) Wastewater Discharge Permitting: New Connections. Any User required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with §53.043(E) of this subchapter, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.
- (E) Wastewater Discharge Permit Application Contents.
- (1) All Users required to obtain a wastewater discharge permit must submit a permit application. The Pretreatment Coordinator may require Users to submit all or some of the following information as part of the Permit Application form:

- (a) Identifying Information:
  - (i) The name and address of the facility, including the name of the operator and owner.
  - (ii) Contact information, description of activities, facilities, and plant production processes on the premises.
- (b) Environmental Permits: A list of any environmental control permits held by or for the facility.
- (c) Description of Operations:
  - (i) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes;
  - (ii) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
  - (iii) Number and type of employees, hours of operation, and proposed or actual hours of operation;
  - (iv) Type and amount of raw materials processed (average and maximum per day);
  - (v) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
- (d) Time and duration of discharges.
- (e) The location for monitoring all wastes cover by the permit.
- (f) Flow measurement: Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in §53.041(B)(3).
- (g) Measurement of pollutants:
  - (i) The Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
  - (ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Pretreatment Coordinator, of regulated pollutants in the discharge from each regulated process.

- (iii) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
- (iv) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in §53.045(J) of this subchapter. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Pretreatment Coordinator or the applicable Standards to determine compliance with the Standard.
- (v) Sampling must be performed in accordance with procedures set out in § 53.045(K) of this subchapter.
- (h) Any other information as may be deemed necessary by the Pretreatment Coordinator to evaluate the permit application.
- (2) Incomplete or inaccurate applications will not be processed and will be returned to the User for revision. If the Pretreatment Coordinator determines the revised Permit Application form to be incomplete or inaccurate, the Pretreatment Coordinator may require Users to hire an environmental consultant/engineer to assist with completing the Permit Application form and the elements listed in §53.043(E).

(F) 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 in §53.040(D)(3).
- (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 Pretreatment Coordinator prior to or together with any reports to be signed by an Authorized Representative.

(G) Wastewater Discharge Permit Decisions.

- (1) The Pretreatment Coordinator will evaluate the data furnished by the User and may require additional information. Within thirty (30) days of receipt of a complete permit application, the Pretreatment Coordinator will determine whether to issue the wastewater discharge permit.
- (2) If the User has filed a timely and complete application, and the Pretreatment Coordinator has not issued a renewed permit or notified the User of its decision to deny the application, then the User's permit shall continue in effect after expiration, until a permit decision is rendered by the Pretreatment Coordinator.
- (3) The Pretreatment Coordinator may deny or condition an application for new or renewal of wastewater discharge permits if contributions of pollutants, or changes in the nature of pollutants to the POTW from the IU do not meet applicable Pretreatment Standards



and Requirements or where such contributions would cause the POTW to violate its TPDES permit.

(Ordinance 1509-21-08-24, passed 8-24-21)

**§ 53.044. WASTEWATER DISCHARGE PERMIT ISSUANCE.**

- (A) Wastewater Discharge Permit Duration. A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Pretreatment Coordinator. Each wastewater discharge permit will indicate a specific date upon which it will expire.
- (B) Wastewater Discharge Permit Contents. A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Pretreatment Coordinator to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.
- (1) Wastewater discharge permits will contain:
- (a) A statement that indicates wastewater discharge permit issuance date, effective date and the duration, which in no event shall exceed five (5) years;
  - (b) A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with §53.044(D) of this subchapter, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
  - (c) Effluent limits based on applicable pretreatment standards including Best Management Practices (BMPs);
  - (d) Self-monitoring, sampling, reporting, notification, and record-keeping requirements including BMPs. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
  - (e) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law; and
  - (f) Requirements to control Slug Discharge, if determined by the Pretreatment Coordinator to be necessary. The Pretreatment Coordinator shall evaluate within one year of being designated as a Significant Industrial User (SIU), whether each such SIU needs a plan or other action to control slug discharges.
- (2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:
- (a) Limits on the average and/or maximum rate of discharge, time of discharge, and/

or requirements for flow regulation and equalization;

- (b) Requirements for the installation of BMPs, pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (c) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges. The review of such plans and operating procedures and the issuance of the waste discharge permit will in no way relieve the User from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this subchapter;
- (d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- (e) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- (f) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (g) A statement that compliance with the wastewater discharge permit does not relieve the User of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the wastewater discharge permit;
- (h) Compliance schedules;
- (i) Other conditions as deemed appropriate by the Pretreatment Coordinator to ensure compliance with this subchapter, and State and Federal laws, rules, and regulations;
- (j) An agreement by the User that such user shall be responsible for maintenance of the facilities in operating condition at the User's sole expense; that the User shall pay all charges and surcharges applicable to pretreatment or the treatment of waste by the city; and that the User will comply with all the reporting requirements of the city.

(C) Wastewater Discharge Permit Modifications.

- (1) The Pretreatment Coordinator may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
  - (a) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
  - (b) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

- (c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
  - (d) Information indicating that the permitted discharge poses a threat to POTW, POTW personnel, or the receiving waters;
  - (e) Violation of any terms or conditions of the wastewater discharge permit;
  - (f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
  - (g) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
  - (h) To correct typographical or other errors in the wastewater discharge permit;
  - (i) To reflect a transfer of the facility ownership or operation to a new owner or operator; or
  - (j) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- (2) The existing User shall be informed of any proposed changes in the current permit at least thirty (30) days prior to the effective date of the requirement of any such change.
- (D) Wastewater Discharge Permit Transfer. Wastewater discharge permits may be transferred to a new owner or operator only if the User gives at least sixty (60) days advance notice to the Pretreatment Coordinator and the Pretreatment Coordinator approves the wastewater discharge permit transfer. The notice to the Pretreatment Coordinator must include a written certification by the new owner or operator which:
  - (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
  - (2) Identifies the specific date on which the transfer is to occur; and
  - (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.
  - (4) Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.
- (E) Wastewater Discharge Permit Revocation.
  - (1) The Pretreatment Coordinator may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
    - (a) Failure to notify Pretreatment Coordinator of significant changes to the wastewater prior to the changed discharge;
    - (b) Failure to provide prior notification to Pretreatment Coordinator of changed conditions pursuant to §53.045(F) of this subchapter;

- (c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
  - (d) Falsifying self monitoring reports and certification statements;
  - (e) Tampering with monitoring equipment;
  - (f) Refusing to allow Pretreatment Coordinator 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 the wastewater discharge permit application;
  - (l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
  - (m) Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge or this subchapter.
- (2) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a User are void upon the issuance of a new wastewater discharge permit to that User.
- (F) Wastewater Discharge Permit Reissuance. A User with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with §53.041(E) of this subchapter, a minimum of ninety (90) days prior to the expiration of the User's existing wastewater discharge permit.
- (G) Regulation of Waste Received from Other Jurisdictions.
- (1) If another municipality, or User located within another municipality or political subdivision, contributes wastewater to the POTW, the City shall enter into an inter-municipal agreement with the contributing municipality.
  - (2) Prior to entering into an agreement, the Pretreatment Coordinator 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;
    - (c) Such other information as the Pretreatment Coordinator may deem necessary; and

- (d) An inter-municipal agreement, as required by paragraph 1, above, shall contain the following conditions:
- (i) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this subchapter and local limits which are at least as stringent as those set out in §53.041 of this subchapter. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City of Pflugerville's ordinance or local limits;
  - (ii) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
  - (iii) A provision specifying which pretreatment implementation activities, including 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 Pretreatment Coordinator; and which of these activities will be conducted jointly by the contributing municipality and Pretreatment Coordinator;
  - (iv) A requirement for the contributing municipality to provide the Pretreatment Coordinator with access to all information that the contributing municipality obtains as part of its pretreatment activities;
  - (v) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
  - (vi) Requirements for monitoring the contributing municipality's discharge;
  - (vii) A provision ensuring the Pretreatment Coordinator 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 Pretreatment Coordinator; and
  - (viii) A provision specifying remedies available for breach of the terms of the inter-municipal agreement.

(Ordinance 1509-21-08-24, passed 8-24-21)

### **§ 53.045. REPORTING REQUIREMENTS.**

#### **(A) Preliminary Investigation Reports.**

- (1) Any IU, CIU or SIU of the POTW shall be required within 30 days of request from the City to answer and reply to an industrial user survey questionnaire form as promulgated by the Pretreatment Coordinator. The purposes of the requirement for the form shall be to determine the quality of the sewer effluent being discharged from any such user into the POTW; for determination of compliance with the provisions of this subchapter; or for a determination of whether pretreatment approval should be requested from the City.
- (2) Should any User fail to reply in a satisfactory fashion to the questionnaire, such failure

to respond shall be considered a violation of the provisions of this subchapter and subject any such person to the enforcement provisions of this subchapter. The request to answer such questionnaire shall be evidenced by the deposit of such questionnaire to the User at its billing address as shown on the records of the public utility or electronically to the Pretreatment Coordinator at the email address noted in the questionnaire.

- (3) In addition to the enforcement provisions as provided for in this division, the City, upon failure of any User to satisfactorily answer the questionnaire as provided in this section, may cause the waste being discharged from such user to be tested and the costs therefore shall then be payable by the User to the city. Should such User fail to pay such costs upon 30 days' notice from the city, this shall be considered as a failure to pay a city utility bill and utility service may be cut off by the city upon the failure to make such payment.

(B) Baseline Monitoring Reports.

- (1) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing IUs currently discharging to or scheduled to discharge to the POTW shall submit to the Pretreatment Coordinator a report which contains the information listed in paragraph (2), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that will become CIUs subsequent to the promulgation of an applicable categorical standard, shall submit to the Pretreatment Coordinator a report which contains the information listed in paragraph (2), below.
- (2) Users described above shall submit the information set forth below.
  - (a) Identifying Information. The name and address of the facility, including the name of the operator and owner.
  - (b) Environmental Permits. A list of any environmental control permits held by or for the facility.
  - (c) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
  - (d) Flow Measurement. Information showing the measured or estimated average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams. If combined wastestream formula applies, provide sufficient information to allow combined wastestream formula to be determined set out in 40 CFR 403.6(e). New sources must estimate flows.
  - (e) Measurement of Pollutants.
    - (i) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.

- (ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Pretreatment Coordinator, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. Sampling results submitted shall include the chain-of-custody forms.
  - (iii) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in §53.045(K) of this subchapter. The frequency of monitoring for the reports of this section shall be prescribed in the applicable pretreatment standard. New sources must estimate concentrations. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Pretreatment Coordinator or the applicable Standards to determine compliance with the Standard.
  - (iv) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
  - (v) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Pretreatment Coordinator.
  - (vi) Sampling must be performed in accordance with procedures set out in §53.045(J) (Analytical methods Requirements) and §53.045(K) (sample collection) of this subchapter.
  - (vii) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.
  - (viii) The Pretreatment Coordinator may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
- (3) Certification. A statement, reviewed by the User's authorized representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.
- (4) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet

the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in §53.045(C) of this subchapter.

- (5) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with §53.045(N) of this subchapter.
- (C) Compliance Schedule Progress Reports. The following conditions shall apply to the compliance schedule required by §53.045(B)(4) of this subchapter:
- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
  - (2) No increment referred to above shall exceed nine (9) months;
  - (3) The User shall submit a progress report to Pretreatment Coordinator no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and
  - (4) In no event shall more than nine (9) months elapse between such progress reports to Pretreatment Coordinator.
- (D) Reports on Compliance with Categorical Pretreatment Standard Deadline.
- (1) Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to Pretreatment Coordinator a report containing the information described in §53.043(E)(1)(f) and (g) and (7) and §53.045(B)(2) of this subchapter.
  - (2) In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Pretreatment Coordinator or submit the Pretreatment Standard necessary to determine the compliance status of the User.
  - (3) For Users subject to equivalent mass or concentration limits established in accordance with the procedures in §53.041(B), this report shall contain a reasonable measure of the User's long term production rate. For all other Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during



the appropriate sampling period.

- (4) All compliance reports must be signed and certified in accordance with §53.045(N) of this subchapter. All sampling and analysis shall be done in conformance with §53.045(L) and §53.045(K), respectively.

(E) Periodic Compliance Reports.

- (1) All SIU must, at a frequency determined by Pretreatment Coordinator submit no less than twice per year (June and December) reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Pretreatment Coordinator or the Pretreatment Standard necessary to determine the compliance status of the User.
- (2) In addition, this report shall include a record of measured or estimated average and maximum daily flows and data obtained through appropriate sampling and analysis performed during the reporting period. At the discretion of the Pretreatment Coordinator and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Pretreatment Coordinator may agree to alter the months during which reports under this subsection are to be submitted.
- (3) At the Pretreatment Coordinator's discretion, sampling and analysis may be performed by the City in lieu of the User.
- (4) All Periodic Compliance Reports must be signed and certified in accordance with §53.045(N) of this subchapter.
- (5) If a User subject to the reporting requirement in this section monitors any pollutant more frequently than required by the wastewater discharge permit, the sample collection shall be in conformance to §53.045(K) (Sample Collection) and analysis shall be in conformance to §53.045(J) (Analytical Requirements). The User shall include results of this monitoring in the report. Sampling results submitted shall include the chain-of-custody forms.
- (6) All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

(F) Reports of Changed Conditions. Each User must notify Pretreatment Coordinator of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.

- (1) Pretreatment Coordinator 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 §53.043(E) of this subchapter.

- (2) Pretreatment Coordinator may reissue a wastewater discharge permit under §53.044(F) of this subchapter or modify an existing wastewater discharge permit under §53.044(C) of this subchapter in response to changed conditions or anticipated changed conditions.

(G) Reports of Potential Problems.

- (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Pretreatment Coordinator of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.
- (2) Within five (5) days following such discharge, the User shall, unless waived by Pretreatment Coordinator, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this subchapter.
- (3) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (1), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.
- (4) SIUs are required to notify the Pretreatment Coordinator immediately of any changes at its facility affecting the potential for a Slug Discharge.

(H) Reports from Unpermitted Users.

- (1) All Users not required to obtain a wastewater discharge permit shall provide within thirty (30) days, the completed industrial user survey questionnaire to the Pretreatment Coordinator, if requested.
- (2) Should any User fail to reply in a satisfactory fashion to the questionnaire, such failure to respond shall be considered a violation of the provisions of this division and subject any such person to the enforcement provisions of this division.
- (3) In addition to the enforcement provisions noted in §53.049 and §53.050, the Pretreatment Coordinator, upon failure of any User to satisfactorily answer the questionnaire, may cause the waste being discharged from such User to be tested and the costs therefore shall then be payable by the User to the city. Should such User fail to pay such costs upon 30 days' notice from the city, this shall be considered as a failure to pay a city utility bill and utility service may be cut off by the city upon the failure to make such payment.

(I) Notice of Violation/Repeat Sampling and Reporting.

- (1) If sampling performed by a User indicates a violation, the User must notify Pretreatment Coordinator 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 Pretreatment Coordinator within thirty (30) days after becoming aware of the violation.
- (2) Resampling by the IU is not required if:
  - (a) The City performs sampling at the User's facility at least once a month; or
  - (b) The City performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling; or
  - (c) The City has performed the sampling and analysis in lieu of the IU.
- (J) Analytical Requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Pretreatment Coordinator or other parties approved by EPA.
- (K) Sample Collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
  - (1) Except as indicated in subsections (2) and (3) below, the User must collect wastewater samples using 24-hour flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by Pretreatment Coordinator. Where time proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.
  - (2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

- (3) For sampling required in support of baseline monitoring and compliance reports required in §53.045(B), (D), and (E), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, Pretreatment Coordinator may authorize a lower minimum. For the reports required by paragraphs §53.045(E), the IU is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements. Sampling results submitted shall include the chain-of-custody forms.
- (L) Date of Receipts 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, or sent electronically, the date of receipt of the report shall govern.
- (M) Recordkeeping. Users and the POTW subject to the reporting requirements of this subchapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this subchapter, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records including documentation associated with Best Management Practices shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the City.
- (N) Certification Statements. Certification of Permit Applications, and User Reports - The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with §53.043(F); Users submitting baseline monitoring reports under §53.045(B); Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under §53.045(D); and Users submitting periodic compliance reports required by §53.045(E). The following certification statement must be signed by an Authorized Representative as defined in §53.040(D)(3):  
“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”  
(Ordinance 1509-21-08-24, passed 8-24-21)

## **§ 53.046. COMPLIANCE MONITORING.**

- (A) Monitoring Facilities.

- (1) The City shall require monitoring facilities, to be provided and operated at the IU's own expense, to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the User's premises, but the City may, when such a location would be impractical or cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
  - (2) There shall be ample room in or near a sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.
  - (3) Whether constructed on public or private property, the sampling and monitoring facilities required by this section shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the City.
- (B) Right of Entry: Inspection and Sampling. Pretreatment Coordinator shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this subchapter and any individual wastewater discharge permit or order issued hereunder. Users shall allow Pretreatment Coordinator ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
- (1) Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, Pretreatment Coordinator shall be permitted to enter without delay for the purposes of performing specific responsibilities.
  - (2) Pretreatment Coordinator shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
  - (3) Pretreatment Coordinator may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.
  - (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of Pretreatment Coordinator and shall not be replaced. The costs of clearing such access shall be borne by the User.
  - (5) Delays greater than one hour in allowing Pretreatment Coordinator access to the User's premises shall be a violation of this subchapter.

- (6) In accordance with 40 CFR 403.8(f)(2)(v), the City shall inspect and monitor each permitted significant industrial user a minimum of once per year. If the City elects to perform compliance monitoring for the industry, then the City will monitor the industry a minimum of once every 6 months.
- (C) Search Warrants. If the City has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this subchapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this subchapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the City may seek issuance of a search warrant from the appropriate court.
- (Ordinance 1509-21-08-24, passed 8-24-21)

#### **§ 53.047. CONFIDENTIAL INFORMATION.**

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

(Ordinance 1509-21-08-24, passed 8-24-21)

#### **§ 53.048. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.**

The City shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (3), (4) or (8) of this Section) and shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in §53.041;
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty three percent (33%) or more of wastewater measurements taken for each pollutant parameter

during a six (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by §53.041 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

- (3) Any other violation of a Pretreatment Standard or Requirement as defined by §53.041 (Daily Maximum, long term average, Instantaneous Limit, or narrative standard) that the Pretreatment Coordinator determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
  - (4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Pretreatment Coordinator's exercise of its emergency authority to halt or prevent such a discharge;
  - (5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
  - (6) Failure to provide within forty five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self monitoring reports, and reports on compliance with compliance schedules;
  - (7) Failure to accurately report noncompliance; or
  - (8) Any other violation(s), which may include a violation of Best Management Practices, which the Pretreatment Coordinator determines will adversely affect the operation or implementation of the local pretreatment program.
- (Ordinance 1509-21-08-24, passed 8-24-21)

#### **§ 53.049. ADMINISTRATIVE ENFORCEMENT REMEDIES.**

##### **(A) Notification of Violation.**

- (1) When the Pretreatment Coordinator finds that a User has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Pretreatment Coordinator may serve upon that User a written Notice of Violation. Such notice and order shall state:
  - (a) The nature of the violation and the provisions of this subchapter which have been violated;
  - (b) The corrective action which must be taken and the amount of time allowed to correct the violation.
- (2) Within thirty (30) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Pretreatment Coordinator. Submission of

this plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Pretreatment Coordinator to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

- (B) Consent Orders. The City may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §53.049(D) of this subchapter and shall be judicially enforceable.
- (C) Show Cause Hearing. The City may order a User which has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before Pretreatment Coordinator and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served electronically or by registered or certified mail (return receipt requested) at least fifteen (15) days prior to the hearing. Such notice may be served on any Authorized Representative of the User. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.
- (D) Administrative Orders.
- (1) Compliance Orders. When Pretreatment Coordinator finds that a User has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User. The Pretreatment Coordinator may grant a variance in compliance dates to a user when, in the Pretreatment Coordinator's opinion, such action is necessary to achieve pretreatment or corrective measures. In no case shall the Pretreatment Coordinator grant a variance in compliance dates to an industry affected by national categorical pretreatment standards beyond the compliance dates established by the EPA.
- (2) Cease and Desist Orders. When Pretreatment Coordinator finds that a User has violated, or continues to violate, any provision of this subchapter, a wastewater



discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the City may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- (a) Immediately comply with all requirements; and
- (b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

(E) Administrative Fines.

- (1) When the Pretreatment Coordinator finds that a User has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may fine such User in an amount not to exceed Two-Thousand Dollars (\$2,000) on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- (2) Users desiring to dispute such fines must file a written request for the City to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Where a request has merit, the City may convene a hearing on the matter within thirty (30) business days. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The City may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- (3) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User

(F) Emergency Suspensions.

- (1) The City may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The City may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.
  - (a) Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, Pretreatment Coordinator may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The City may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of Pretreatment Coordinator that the period of endangerment has passed, unless the termination

proceedings in §53.049(F) of this subchapter are initiated against the User.

- (b) A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to Pretreatment Coordinator prior to the date of any show cause or termination hearing under §53.049(C) or (F) of this subchapter.
  - (2) Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.
  - (G) Termination of Discharge. In addition to the provisions in §53.044(E) of this subchapter, any User who violates the following conditions is subject to discharge termination:
    - (1) Violation of wastewater discharge permit conditions;
    - (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
    - (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
    - (4) Failure to pay the City for the cost incurred by the City in testing of wastes discharged from User for the Preliminary Investigation Reports per §53.045(A)(3), when the User did not satisfactorily answer the industrial user survey questionnaire.
    - (5) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
    - (6) Violation of the Pretreatment Standards in §53.041 of this subchapter.
    - (7) Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under §53.049(C) of this subchapter why the proposed action should not be taken. Exercise of this option by the City shall not be a bar to, or a prerequisite for, taking any other action against the User.
- (Ordinance 1509-21-08-24, passed 8-24-21)

#### **§ 53.050. JUDICIAL ENFORCEMENT REMEDIES.**

- (A) Injunctive Relief. When Pretreatment Coordinator finds that a User has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may petition the appropriate District Court through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this subchapter on activities of the User. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.
- (B) Civil Penalties.

- (1) A User who has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty of Two Thousand Dollars (\$2,000) per violation, per day. In the case of a monthly or other long term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (2) The City may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- (3) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.
- (4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

(C) Criminal Prosecution.

- (1) A User who willfully or negligently violates any provision of this subchapter, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than Two Thousand Dollars (\$2,000.00) per violation, per day, or imprisonment as decided by the appropriate District Court, or both.
- (2) A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a maximum penalty of Two Thousand Dollars (\$2,000.00) per violation, per day, or be subject to imprisonment as decided by the appropriate District Court, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- (3) A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this subchapter, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this subchapter shall, upon conviction, be punished by a fine of not more than Two Thousand Dollars (\$2,000.00) per violation, per day, or imprisonment as decided by the appropriate District Court, or both.
- (4) Criminal Responsibility: A person is criminally responsible for a violation of this Subchapter if the person negligently, knowingly, or willfully commits or assists in the commission of a violation, or causes or permits another person to commit a violation.

(D) Remedies Nonexclusive. The remedies provided for in this subchapter are not exclusive. The City may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's

enforcement response plan. However, the City may take other action against any User when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any noncompliant User.

(Ordinance 1509-21-08-24, passed 8-24-21)

### **§ 53.051. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS.**

#### **(A) Act of God Defense.**

- (1) Act of God defense: The Act of God defense constitutes a statutory affirmative defense [Texas Water Code §7.251] in an action brought in municipal or State court. If a User can establish that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of the ordinance or permit.
- (2) A User who wishes to establish the Act of God affirmative defense shall demonstrate, through relevant evidence that:
  - (a) An event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance occurred, and the sole cause of the event was an act of God, war, strike, riot or other catastrophe; and
  - (b) The User IU has submitted the following information to the City within 24 hours of becoming aware of the event that would otherwise be a violation of a pretreatment ordinance or permit issued under the ordinance (if information is provided orally, a written submission must be provided within five days):
    - (i) A description of the event, and the nature and cause of the event;
    - (ii) The time period of the event, including exact dates and times or, if still continuing, the anticipated time the event is expected to continue; and
    - (iii) Steps being taken or planned to reduce, eliminate and prevent recurrence of the event.
- (3) Burden of proof: In an enforcement, the User seeking to establish the Act of God affirmative defense shall have the burden of proving by a preponderance of the evidence that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot or other catastrophe.

#### **(B) Bypass.**

- (1) For the purposes of this Section,
  - (a) Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility.
  - (b) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial

and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

- (2) A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this Section.

(3) Bypass Notifications:

- (a) If a User knows in advance of the need for a bypass, it shall submit prior notice to Pretreatment Coordinator, at least ten (10) days before the date of the bypass, if possible.
- (b) A User shall submit oral notice to Pretreatment Coordinator of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. Pretreatment Coordinator may waive the written report on a case-by-case basis if the oral report has been received within twenty four (24) hours.

(4) Bypass:

- (a) Bypass is prohibited, and Pretreatment Coordinator may take an enforcement action against a User for a bypass, unless
- (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- (iii) The User submitted notices as required under paragraph (C) [sic] of this section.

- (5) Pretreatment Coordinator may approve an anticipated bypass, after considering its adverse effects, if Pretreatment Coordinator determines that it will meet the three conditions listed in paragraph (4)(a) of this Section.

(Ordinance 1509-21-08-24, passed 8-24-21)

**§ 53.052. MISCELLANEOUS PROVISIONS.**

(A) Pretreatment Charges and Fees. The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program, which may include:

- (1) Fees for wastewater discharge permit applications including the cost of processing such applications;
- (2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports and certification statements submitted by Users;
- (3) Fees for reviewing and responding to accidental discharge procedures and construction;
- (4) Fees for filing appeals;
- (5) Fees to recover administrative and legal costs associated with the enforcement activity taken by the Pretreatment Coordinator to address IU noncompliance; and
- (6) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this subchapter and are separate from all other fees, fines, and penalties chargeable by the City.

(B) Surcharge for High Strength Wastewater.

- (1) A User discharging wastewater to the POTW with BOD, TSS, Ammonia-Nitrogen, and Phosphorus of concentrations higher than normal domestic wastewater as defined in §53.040(D)(43) shall pay a monthly surcharge in addition to the usual monthly sewer charge.
- (2) The City shall calculate the surcharge under this section using cost factors based on the capital and operating cost of wastewater facilities necessary to treat the high strength wastewater and equitable distribution of the cost of operation, maintenance, and improvement to the POTW.
- (3) Wastewater discharges to the POTW from IUs that meet the following criteria for high-strength wastewater will be assessed surcharge fees:
  - (a) 5-day Biochemical Oxygen Demand (BOD) concentrations greater than 250 mg/l
  - (b) Chemical Oxygen Demand (COD) concentrations greater than 450 mg/l.
  - (c) Total Suspended Solids (TSS) concentrations greater than 250 mg/l
  - (d) Total Kjeldahl Nitrogen (TKN) concentrations greater than 50 mg/l
  - (e) Total Phosphorus (TP) concentrations greater than 8 mg/l
- (4) The surcharge will be assessed according to the following formula each month using the most current pollutant concentration data and the current months' wastewater flow at the end of pipe:

If COD concentration greater than 450 mg/l, surcharge will be calculated:

$$S = V * 8.34 * (A*[COD-450] + C*[TSS-250] + D*[TKN-50] + E*[TP-8])$$

If COD concentration is less than 450 mg/l, surcharge will be calculated:

$$S = V * 8.34 * (B*[BOD-250] + B*[TSS-250] + C*[TKN-50] + D*[TP-8])$$

S - Total monthly surcharge fee in dollars (\$)

V - Monthly wastewater flow in million gallons (MG)

A - Unit cost of treatment per pound of COD (\$0.15/lb COD)

B - Unit cost of treatment per pound of BOD (\$0.27/lb BOD)

C - Unit cost of treatment per pound of TSS (\$0.19/lb TSS)

D - Unit cost of treatment per pound of TKN (\$0.65/lb TKN)

E - Unit cost of treatment per pound of TP (\$1.95/lb TP)

COD - Average concentration of COD in discharge (mg/l)

BOD - Average concentration of 5-day BOD in discharge (mg/l)

TSS - Average concentration of TSS in discharge (mg/l)

TKN - Average concentration of TKN in discharge (mg/l)

TP - Average concentration of TP in discharge (mg/l)

- (5) The City may periodically reevaluate the unit cost of treatment for the pollutants and adjust the surcharge rate accordingly to reflect changes in POTW operation and maintenance and other applicable costs.

- (6) Payment of any surcharge under this section does not constitute a waiver of any of the prohibited discharge standards in §53.041, nor does it relieve the User from the obligation to meet all pretreatment requirements in this subchapter.

(Ordinance 1509-21-08-24, passed 8-24-21)

**ARTICLE V**  
**FATS, OIL, AND GREASE MANAGEMENT**

**§ 53.070. GENERAL PROVISIONS.**

(A) Purpose and policy.

- (1) This subchapter sets forth uniform requirements for liquid waste generators operating in the City of Pflugerville, Texas and enables the City to comply with all applicable State and Federal laws and regulations, including the Clean Water Act (33 United States Code § 1251 et seq.).
- (2) The objectives of this subchapter are:
  - (a) To aid in the prevention of sanitary sewer overflows resulting from blockages and obstructions due to the accumulation of fats, oils, and greases from commercial and industrial facilities;
  - (b) To aid in the prevention of recurring sewer line cleaning to remove blockages due to the accumulation of fats, oils, and greases from commercial and industrial facilities;
  - (c) To aid in the prevention of additional inspections and cleaning of manholes, lift stations, and air-release valves due to the accumulation of fats, oils, and greases from commercial and industrial facilities;
  - (d) To promote the proper maintenance of grease interceptors and grit traps/oil separators; and
  - (e) To ensure the proper handling, disposal, transport and tracking of grease interceptor waste, grit trap/oil separation waste, and other liquid waste.

(B) Administration. This subchapter shall be designated as the FOG Management Ordinance. Except as otherwise provided herein, the Pretreatment Coordinator shall administer, implement, and enforce the provisions of this subchapter. Any powers granted to or duties imposed upon the Pretreatment Coordinator may be delegated to a Duly Authorized City employee.

(C) Abbreviations. The following abbreviations, when used in this subchapter, shall have the designated meanings:

AGCD - automatic grease removal device

BOD - Biochemical Oxygen Demand

BMP - Best Management Practice

CFR - Code of Federal Regulations

COD - Chemical Oxygen Demand

EPA - U.S. Environmental Protection Agency



gpd - gallons per day  
gpm - gallons per minute  
GGI - gravity grease interceptor  
HGI - hydromechanical grease interceptor  
IU - Industrial User  
mg/L - milligrams per liter  
NPDES - National Pollutant Discharge Elimination System  
POTW - Publicly Owned Treatment Works  
RCRA - Resource Conservation and Recovery Act  
SIU - Significant Industrial User  
SNC - Significant Noncompliance  
SSO - Sanitary sewer overflow  
TAC - Texas Administrative Code  
TCEQ - Texas Commission on Environmental Quality  
TSS - Total Suspended Solids  
U.S.C. - United States Code

(D) Definitions. The definitions promulgated in §53.040(D) of this chapter are hereto applicable.

APPROVED. Accepted as satisfactory under the terms of this chapter and given formal and official sanction by the City of Pflugerville.

ASSISTANT CITY MANAGER - PUBLIC WORKS. The chief executive officer of the utility department of the City of Pflugerville or his/her authorized deputy, agent or representative.

BEST MANAGEMENT PRACTICES OR BMPS. The Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in §53.041. 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.

BROWN GREASE. Floatable fats, oils, grease and settled solids produced during food preparation that are recovered from grease control devices.

CAR WASH. Establishments primarily engaged in cleaning, washing, and/or waxing automotive vehicles, such as passenger cars, trucks, vans, and trailers and are categorized by North American Industry Classification System number 811192 and by Standard Industrial Classification number 7542.

CHEMICAL OXYGEN DEMAND (COD). The value of the test for chemical oxygen demand, as analyzed in accordance with 40 CFR § 136.3.

CITY. The City of Pflugerville, Texas.

CITY MANAGER. The chief executive officer of the City of Pflugerville or his/her authorized deputy, agent, or representative.

CONTROL MANHOLE (“SAMPLE PORT”). A manhole giving access to a building sewer to make visual observation and collect representative samples at a location downstream of the grease removal device but before the building sewer discharge mixes with other discharges in the public sewer.

DAILY MAXIMUM LIMIT. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

DECANTING. Discharging of removed wastewater back into the grease control device, for the purpose of reducing the volume to be hauled or for recharging the grease control device.

DIRECTOR. The Public Utility Director of the City of Pflugerville or his authorized deputy, agent or representative.

DISPOSAL. The discharge, deposit, release, injection, dumping, spilling, leaking, or placing of any liquid waste into or on any land or water so that such waste or any constituent thereof may enter the environment, be emitted into the air or discharged to any sewers or waters, including ground waters.

DISPOSAL SITE. A permitted site or part of a site at which liquid waste is processed, treated, and/or intentionally placed into or on any land and at which the waste will remain after site closure.

DISPOSER. A person who receives, stores, retains, processes, or disposes of liquid waste.

FATS, OILS, AND GREASE (FOG). Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR Part 136, as may be amended from time to time. All are sometimes referred to herein as “grease” or “greases.”

FOOD PROCESSING ESTABLISHMENT. Any establishment or facility in which food for consumption is manufactured, processed, or packaged.

FOOD SERVICE ESTABLISHMENT. Any public or private establishment that prepares or serves food including, but not limited to assisted living facilities, bakeries, bars and taverns, butcher shops, cafes, clubhouses, coffee shops, commissary or similar facility in which food or drink is prepared for sale or for service on the premises or elsewhere, convenience stores, delicatessens, grocery stores, ice cream parlors, hospitals, hotels, nursing homes, restaurants, schools, or similar places where meat, poultry, seafood, dairy products, or fried foods are prepared, served, or offered for sale, but shall not apply to any single-family residence or dwelling not used for the commercial preparation and sale of food items. A food service establishment does not include an establishment that offers only prepackaged foods that are not time / temperature controlled for food safety, a produce stand that only offers whole, uncut fresh fruits and vegetables, a food processing plant, a cottage food industry, an area where cottage food is prepared, sold, or offered for human consumption, a Bed and Breakfast

Limited facility as defined in 25 TAC §228.2 (10), or a private home that receives catered or home-delivered food.

FOOD SERVICE ESTABLISHMENT DISCHARGE PERMIT. A permit that may be issued by the Director that authorizes the discharge of treated or not treated non-domestic wastewater from the establishment.

FOOD WASTE DISPOSAL UNIT (OR “GARBAGE GRINDER”). A fixture in a food service establishment that is used to grind up food wastes prior to discharge to a solids interceptor, grease control device, or sanitary sewer. The food waste must be shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than one-half inch in any dimension are prohibited. The Pretreatment coordinator is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater.

GENERATOR. Any person who causes, creates, generates, or otherwise produces liquid waste, or a person who for any reason has a liquid waste removed from his property by a registered transporter of liquid waste.

GREASE CONTROL DEVICE. A device used to collect, contain, and remove food waste, including FOG, from the wastewater while allowing the remaining wastewater to be discharged to the sanitary sewer system by gravity. Devices include gravity grease interceptors, grease traps, hydromechanical grease interceptors, automatic grease removal devices, or other devices approved by the City.

GREASE INTERCEPTOR (OR “GREASE TRAP”). A device designed to use differences in specific gravities to separate and retain light density liquids, waterborne fats, oils, and greases prior to the wastewater entering the sanitary sewer collection system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the interceptor and entering the sanitary sewer collection system.

GREASE INTERCEPTOR WASTE. Any organic, inorganic, greasy or fatty liquid, semi-liquid, and/or solid wastes collected by and removed from a grease interceptor.

GRIT TRAP/OIL SEPARATOR (OR “GRIT TRAP”). A watertight receptacle designed and constructed to intercept and prevent the passage of petroleum-based oil, grease wastes and solids into the sanitary sewer system to which the receptacle is directly or indirectly connected.

GRIT TRAP WASTE. Oil and grease waste, inorganic solids generated by a commercial facility that are collected by and removed from a grit trap.

LIQUID WASTE. Water-borne solids and liquids containing dissolved or suspended waste material including but not limited to septage and wastes from grease control devices and grit traps.

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

- (1) Have any of the following characteristics: toxic, corrosive, and irritant, a strong

sensitizer, flammable or combustible, explosive or otherwise capable of causing substantial personal injury or illness;

- (2) Pose a substantial hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise improperly managed, and is identified or listed as a hazardous waste as defined by the Texas Solid Waste Disposal Act or the administrator, EPA pursuant to the Federal “Solid Waste Disposal Act”, as amended by the RCRA of 1976”, and as it may be amended in the future.

MANIFEST (“TRIP TICKET”). The written multi-part documentation required to be in the possession of the transporter enabling disposal of hauled grit trap waste, grease trap waste, and septage at a permitted or registered disposal site in accordance with 30 TAC Chapter 312, Subchapter G, Section 312.145.

MANIFEST SYSTEM. A system consisting of a five-part trip ticket used to document the generation, transportation, and disposal of liquid waste in accordance with 30 TAC Chapter 312, Subchapter G, Section 312.145.

PERSON. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local governmental entities.

PRETREATMENT COORDINATOR. The person designated by the City to supervise industrial discharge or non-domestic wastes of a liquid nature discharged to the POTW, and who is charged with certain duties and responsibilities by this subchapter. The term also means a duly authorized representative of the City.

PUBLIC NUISANCE. The discharge or exposure of grease, sewage, or other organic waste in such a way as to be a potential instrument or medium in disease transmission to a person or between persons.

PUBLICLY OWNED TREATMENT WORKS OR POTW. Any treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

RENDERABLE FOG CONTAINER (“GREASE BIN”). A closed, leak-proof container used for the collection and storage of yellow grease.

SANITARY SEWER OVERFLOW. A sanitary sewer overflow (SSO) is a type of unauthorized discharge of untreated or partially treated wastewater from a collection system or its components (e.g., a manhole, lift station, or cleanout) before reaching a treatment facility. [See also Texas Water Code Paragraph 26.049(e)(4).]

SEPTAGE. Liquid waste and sludge containing sufficient liquid content, which is removed from a portable toilet, chemical toilet, septic tank, or cesspool. Septage does not include non-domestic wastes from commercial or industrial facilities.

SOLIDS INTERCEPTOR. A device that captures solid particles from a food waste disposal

unit prior to connection to a grease interceptor to prevent blockage of flow control devices when used. The solids interceptor shall be sized and rated for the discharge of the food waste disposers.

**SURCHARGE.** A charge in addition to the sewer use charge that is applied to those wastestreams whose pollutant concentrations are more than normal domestic sewage, including but not limited to BOD, COD, TSS, and FOG.

**TCEQ.** The Texas Commission on Environmental Quality, and its predecessor and successor agencies.

**TRANSPORTER (“LIQUID WASTE HAULER” AND “INDUSTRIAL WASTE HAULER”).** Any person who is registered with and authorized by the TCEQ to transport sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste in accordance with 30 TAC, Chapter 312, Subchapter G, Section 312.142.

**WASHWATER.** The water-borne solids, liquids, gaseous substances or other residue and debris resulting from a washing or cleaning process. Washwater shall not be discharged to the storm sewer and may require pretreatment before being discharged to the sanitary sewer.

**WASHWATER OPERATION.** Any cleaning process generally conducted outdoors, such as washing vehicles, equipment, structures, or paved surfaces for maintenance, safety, aesthetic, or stormwater pollution prevention purposes, and which generates washwater. Examples would include cleaning of petroleum products from parking lots or service station drives, mobile washing operations or equipment/vehicle washing, which does not drain to a grit trap/oil separator.

**YELLOW GREASE.** Kitchen cooking oil used in food preparation that has not been in contact or contaminated with other sources such as water, wastewater, or solid waste. An example of yellow grease is used cooking or fryer oil, which can be recycled into products such as animal feed, cosmetics, and alternative fuel. Yellow grease is also referred to as a renderable raw material and shall be stored in a leak proof, sealable container(s) located on the premises away from storm drains. No wastes from a GCD shall be emptied into a yellow grease container. Yellow grease shall be managed and transported in accordance with Texas Health and Safety Code, Chapter 144.

(Ordinance 1508-21-08-24, passed 8-24-21)

## **§ 53.071. APPLICABILITY AND PROHIBITIONS.**

(A) **Applicability.** This subchapter shall apply to all liquid waste generators that discharge into the publicly owned treatment works (POTW), as defined in §53.070(D) - definitions of this subchapter.

- (1) Grease interceptors or grease traps/oil separators shall not be required for residential users.
- (2) Facilities generating fats, oils, or grease (FOG) as a result of food manufacturing, processing, preparation, or food service shall install, use, and maintain appropriate grease interceptors as required in §53.072 of this subchapter. These facilities include but are not limited to restaurants, food manufacturers, food processors, hospitals, hotels,

motels, schools, nursing homes, and any other facility preparing, serving, or otherwise making any foodstuff available for consumption.

(B) Prohibitions.

- (1) It shall be unlawful for a generator to allow the discharge of any petroleum oil intentionally or unintentionally, non-biodegradable cutting oil, mineral oil, or any fats, oils, or grease of animal or vegetable origin into the POTW in concentrations greater than those promulgated in Title V, Chapter 53, of the City of Pflugerville Code of Ordinances.
- (2) It shall be unlawful to discharge wastes from a food waste disposal unit located in a commercial kitchen directly into the sanitary sewer without prior approval by the Director.
- (3) It shall be unlawful to discharge trucked or hauled pollutants, except as deemed suitable and at discharge points designated by the Director.
- (4) It shall be unlawful for a person to create a public nuisance.
- (5) It shall be unlawful for a generator of liquid waste to have liquid waste in combination with hazardous waste removed from his premises by a liquid waste hauler unless the hauler is registered with TCEQ under 30 TAC Chapter 335 and authorized by the City under §53.042(D).

(Ordinance 1508-21-08-24, passed 8-24-21)

**§ 53.072. INTERCEPTOR APPROVAL AND INSTALLATION.**

(A) New facilities.

- (1) Food processing establishments and food service establishments which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include a food service establishment, where such establishment did not previously exist, shall be required to design, install, operate, and maintain a grease interceptor in accordance with locally adopted plumbing codes or other applicable ordinances and guidelines as required by the City. Grease interceptors shall be installed and inspected by the Pretreatment Coordinator prior to approval by the City and the issuance of a certificate of occupancy and a food processing establishment or food service establishment health permit.
- (2) Facilities which perform washing, cleaning, or servicing of automobiles, trucks, buses, or similar equipment which are newly proposed or constructed with floor drains in areas of operation, shall be required to design, install, operate, and maintain a grit trap/oil separator in accordance with locally adopted plumbing codes or other applicable ordinances and guidelines as required by the City. Grit traps/oil separators shall be inspected by the Pretreatment Coordinator after installation prior to approval by the City and issuance of a certificate of occupancy.

(B) Existing facilities.

- (1) Existing grease interceptors or grit traps/oil separators must be operated and maintained in accordance with the manufacturer's recommendations and in accordance with these standards referenced herein, unless specified in writing and approved by the POTW. Other commercial users may be required by the City to install an approved grease interceptor, grit trap/oil separator when the concentration of oil, grease waste or suspended solids is greater than concentrations promulgated in Title V, Chapter 53, of the City of Pflugerville Code of Ordinances or when discharges may cause blockages in the wastewater collection system. Grease interceptors shall be inspected by the Pretreatment Coordinator after installation and prior to approval by the City.
- (2) Existing food processing establishments or food service establishments that change in ownership, or existing facilities which will be expanded or renovated to include a food service facility, where such facility did not previously exist or where there is an inadequately sized grease interceptor, shall be required to design, install, operate, and maintain a grease interceptor in accordance with locally adopted plumbing codes, or other applicable ordinances and guidelines as required by the City. Existing food service establishments, which have caused or contributed to grease-related blockage in the sewer system, or which have sewer laterals connected to hot spots, or which have been determined to contribute significant FOG to the sewer system by the Pretreatment Coordinator based on inspection or monitoring, shall be deemed to have reasonable potential to adversely impact the sewer system, and shall install grease interceptors within one-hundred eighty (180) days upon notification by the City. Grease interceptors shall be inspected by the Pretreatment Coordinator after installation but prior to approval and the issuance of a food processing establishment or food service establishment health permit.
- (3) Existing facilities which perform washing, cleaning, or servicing of automobiles, trucks, buses, or similar equipment with floor drains in the areas of operation that change in ownership or are expanded or renovated to include floor drains in areas of operation shall be required to design, install, operate, and maintain a grit trap/oil separator in accordance with the locally adopted plumbing code, or other applicable ordinances and guidelines as required by the City. Grit traps/oil separators shall be inspected by the Pretreatment Coordinator after installation but prior to approval by the City and the issuance of a certificate of occupancy.
- (C) Control manhole or sampling port. A generator that is a new facility shall install a control manhole or sample port to allow access to sample the wastestream as close as possible to the connection with the City's sanitary sewer main within the bounds of the facility property. An existing facility which will be expanded or remodeled may be required to install a port according to the specifications of the City. The control manhole or port shall be installed and maintained at the generator's expense. The port shall be installed perpendicular to the effluent flow to allow visual observation and representative sampling. The control manhole or sample port shall be kept closed when not in use and shall be installed in such a way as to not be susceptible to infiltration and inflow. There shall be a free-fall between the inlet and the outlet of the control manhole or sample port of at least six (6) inches to allow for the collection of an uncontaminated, representative grab sample of the effluent. A cleanout shall not be installed to serve as a sample port unless approved by the Director.

- (D) Grease interceptor and control manhole or sampling port approval. The Pretreatment Coordinator is authorized to review grease interceptor, grit trap/oil separator, and control manhole and sampling port plans and specifications submitted to the City and make recommendations prior to approval by the City. The grease interceptor type, volume, and grease production capacity should be determined in accordance with the locally adopted plumbing code and the most current edition of the American Society of Plumbing Engineers (ASPE) Design Handbook, Volume 4, or using similar grease production values for the type of food, number of meals served, and other factors deemed appropriate by the City. The Pretreatment Coordinator is authorized to inspect the grease control devices and control manhole or sampling port at the site after installation and make recommendations prior to approval by the City.
- (E) Single Certificate of Occupancy. Grease interceptors and grit traps/oil separators shall be installed pursuant to a single certificate of occupancy. No person or persons shall allow the use of a single interceptor or trap by more than one business as defined by a certificate of occupancy without prior written approval by the City Manager.
- (Ordinance 1508-21-08-24, passed 8-24-21)

**§ 53.073. VARIANCE AND WAIVER OF GREASE INTERCEPTOR REQUIREMENT.**

- (A) Variance from Gravity Grease Interceptor Requirements. If a food service establishment can demonstrate that the installation of a gravity grease interceptor is not necessary or feasible due to space, nature of operations, or other considerations, the Director may issue a variance from gravity grease interceptor requirements and authorize the installation of alternative grease removal devices. Alternative grease removal devices include, but are not limited to, HGI or other devices designed to trap, separate, and hold grease from wastewater and prevent it from being discharged to the POTW. All alternative grease removal devices must be approved by the Director in advance of installation. A food service establishment requesting a gravity grease interceptor requirement variance shall submit the request in writing on a form provided by the POTW. The Director's determination to grant a variance will be based upon, but not limited to, evaluation of the following conditions:
- (1) There is not adequate space for installation and/or maintenance of a grease interceptor.
  - (2) There is not adequate slope for gravity flow between the kitchens plumbing fixtures and the gravity grease interceptor and/or between the gravity grease interceptor and the private sewer collection lines or the public sewer.
  - (3) The food service establishment can justify that the alternative grease removal device is equivalent or better than a gravity grease interceptor in controlling its FOG discharge.
- (B) Conditional Waiver from Installation of Grease Interceptor. A new or remodeled existing food service establishment may obtain a conditional waiver from installation of a grease interceptor, if the food service establishment demonstrates that it has negligible FOG discharge and insignificant impact to the sewer system. Although a waiver from installation of grease interceptor may be granted, the food service establishment may be required to provide space and plumbing segregation for future installation of grease interceptor. A food service establishment requesting a grease interceptor installation waiver shall submit the request in writing on a form provided by the POTW. The Director's determination to grant



or revoke a conditional waiver shall be based upon, but not limited to, evaluation of the following conditions:

- (1) Quantity of FOG discharge as measured or as indicated by the size of food service establishment based on seating capacity, number of meals served, menu, water usage, amount of on-site consumption of prepared food and other conditions that may reasonably be shown to contribute to FOG discharges.
  - (2) Adequacy of implementation of best management practices and compliance history.
  - (3) Sewer size, grade, condition based on visual information, FOG deposition in the sewer by the food service establishment, and history of maintenance and sewage spills and overflows in the receiving sewer system.
  - (4) Changes in operations that may significantly affect FOG discharge.
  - (5) Any other condition that may result in FOG discharges.
- (C) Terms and conditions. A variance or waiver shall contain terms and conditions that serve as basis for its issuance. A waiver or variance may be revoked at any time when any of the terms and conditions for its issuance is not satisfied or if the conditions upon which the waiver was based change so that the justification for the waiver no longer exists. The waiver or variance shall be valid so long as the food service establishment remains in compliance with their terms and conditions until the expiration date specified in the variance or waiver.
- (Ordinance 1508-21-08-24, passed 8-24-21)

#### **§ 53.074. INTERCEPTOR CLEANING AND MAINTENANCE.**

(A) General.

- (1) Generator requirements. A generator shall:
  - (a) Provide equipment and facilities at the generator's cost of a type, size, and capacity approved by the City;
  - (b) Locate the grease interceptor or grit trap/oil separator in a manner that provides ready and easy accessibility for sampling, cleaning, maintenance, and inspection;
  - (c) Maintain the grease interceptor or grit trap/oil separator in effective operating condition.
  - (d) Not alter the design or function of the grease interceptor or grit trap/oil separator unless approved in writing by the Director.
  - (e) Supervise proper cleaning and complete removal of the contents of the grease interceptor or grit trap/oil separator.
  - (f) Verify the accuracy of the trip ticket from the transporter and then legibly complete and sign the trip ticket, to certify the statements on the trip ticket, when a load is picked up by the transporter.
  - (g) Maintain the grease interceptor or grit trap/oil separator and its surrounding areas

in sanitary conditions, free of litter and odors.

- (h) Immediately report spills and accidents involving liquid waste to the Director.
- (i) Clean up all spills and abate all unsanitary conditions immediately, and have material used for abatement, such as absorbent materials, disposed of by approved means and in a timely manner.
- (j) A generator of washwater or other liquid waste shall:
  - (i) Contain, collect, and dispose of liquid waste by approved means;
  - (ii) Protect the storm sewer system and the environment from discharges of liquid waste or other contaminants;
  - (iii) Use approved methods for on-site or mobile treatment of liquid waste; and
  - (iv) Accurately measure, by approved means, the volume of liquid waste collected and disposed of by the transporter.
- (2) Rates for sampling and/or analysis. Should any sampling and/or analysis be required by City staff pursuant to any provision in this subchapter provided for generators, then the generator shall reimburse the City for the cost of sampling and testing and will be charged and shall be paid by the generator.
- (3) Full interceptor evacuation. Each grease interceptor or grit trap/oil separator that is pumped shall be fully evacuated unless the interceptor or grit trap volume is greater than the tank capacity on the vacuum truck in which case the transporter shall arrange for additional transportation capacity so that the trap is fully evacuated within a twenty-four-hour period, in accordance with 30 TAC §312.143.

(B) Cleaning Schedule.

- (1) General. All grease interceptors shall be cleaned as often as necessary at the generator's expense to ensure that settled solids and floating materials do not accumulate to impair the efficiency of the grease interceptor; that the discharge is in compliance with local wastewater discharge limits; and, to ensure that no visible grease is observed in the discharge. The four walls and the bottom, baffles, stand-pipes, and fittings in the interceptors shall be cleaned to dislodge FOG and solids every time the interceptor is completely evacuated. The dislodged material shall be removed when the interceptor is evacuated. The interceptor shall be refilled such that the bottom of the effluent piping is submerged prior to placing back into operation to avoid FOG pass-through. At a minimum, if not required to be evacuated, cleaned, or inspected sooner as set forth below, a grease interceptor shall be fully evacuated, cleaned, and inspected at least once every ninety (90) days or as otherwise allowed by a cleaning variance approved by the Director as allowed by §53.074(C). The cleaning frequency shall not exceed once every one hundred eighty (180) days.
- (2) Single-Event and Scheduled Cleaning. The Pretreatment Coordinator may also require the grease interceptor or the grit trap/oil separator to be serviced on a single-event basis or scheduled basis if deemed necessary for the proper operation of the grease

interceptor or grit trap/oil separator.

- (3) Gravity Grease Interceptors. Gravity grease interceptors shall be completely evacuated, and the four (4) walls and bottom completely cleaned to dislodge FOG and solids at a minimum of every ninety (90) days, or more frequently when:
  - (a) Twenty-five (25) percent or more of the wetted height of the grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils, or greases;
  - (b) The discharge exceeds BOD, COD, TSS, FOG, pH, or other pollutant levels established by the POTW;
  - (c) The discharge of wastewater contains free-floating polar FOG on the surface or adhering to the sides of storage containers. There should be less than 0.25 inches of free-floating polar FOG in a sample; or
  - (d) If there is a history of noncompliance.
- (4) Hydromechanical Grease Interceptors. Hydromechanical grease interceptors shall be completely evacuated, and the four (4) walls and bottom completely cleaned to dislodge FOG and solids at a frequency prescribed by the manufacturer, or every ninety (90) days, whichever is most stringent, or more frequently when:
  - (a) The rated grease capacity is reached;
  - (b) The discharge exceeds BOD, COD, TSS, FOG, pH, or other pollutant levels established by the POTW;
  - (c) The discharge of wastewater contains free-floating polar FOG on the surface or adhering to the sides of storage containers. There should be less than 0.25 inches of free-floating polar FOG in a sample; or
  - (d) If there is a history of noncompliance.
- (5) Automatic Grease Removal Devices. Automatic grease removal devices shall be maintained as follows:
  - (a) Opened and inspected for food solids, FOG buildup, and functionality of all parts at a minimum of once every two weeks;
  - (b) The food solids collection basket and the grease collection bucket shall be emptied of their contents at a minimum of once per day when the FSE is in operation;
  - (c) The device shall be inspected and completely evacuated, and the four (4) walls and bottom completely cleaned to dislodge FOG and solids at a minimum of every ninety (90) days, or more frequently when:
    - (i) The discharge exceeds BOD, COD, TSS, FOG, pH, or other pollutant levels established by the POTW;
    - (ii) The discharge of wastewater contains free-floating polar FOG on the surface

or adhering to the sides of storage containers. There should be less than 0.25 inches of free-floating polar FOG in a sample; or

(iii) If there is a history of noncompliance.

(6) Grit Traps/Oil Separators. Grit traps/oil separators shall be completely evacuated and cleaned based on one (1) of the two (2) following schedules in (a) and (b):

(a) At a minimum of every ninety (90) days, or

(b) At a frequency determined by the owner/operator if all of the following best management practices are employed:

(i) At a minimum of once per week, all facilities with a grit trap must routinely check and perform preventive maintenance as required on all connections, valves, hoses, chemical storage containers, drains, and other equipment necessary to prevent an accidental release or slug discharge of chemicals.

(ii) At a minimum of once per month, all facilities with a grit trap must routinely check the level of sediment in each grit trap in order to determine a maintenance schedule that will facilitate consistent compliance with all discharge limits and requirements.

(iii) All self-service and coin-operated car wash facilities must post and maintain signs, in an area that is clearly visible to the public, directing customers not to dispose of oils or chemical wastes at the facility.

(iv) All facilities must document the best management practices, including routine checks, preventive maintenance, and repair logs, and maintain grit trap maintenance records for a minimum of three (3) years and maintain transporter manifests for five (5) years as required by 30 TAC Chapter 312, Subchapter G, Section 312.145.

(v) If at any time, the above practices in §53.074(B)(6)(a) and (b) are not being employed or the required documentation is not available for review, the owner/operator will be required to perform maintenance on the grit trap(s)/oil separator(s) immediately and once every ninety (90) days thereafter. If deemed necessary, the Pretreatment Coordinator may also increase the maintenance frequency of the grit trap(s)/oil separator(s) from the current frequency until such time as the owner/operator can demonstrate consistent compliance with subsections (6)(b)(i)–(v).

(C) Cleaning Variance.

(1) Any person who owns or operates a grease interceptor or grit trap/oil separator may submit to the Director a request in writing on a form provided by the POTW for a waiver to the required pumping frequency of the grease interceptor or grit trap/oil separator. The Director may grant an extension for required cleaning frequency on a case-by-case basis when:

(a) The grease interceptor owner/operator has demonstrated the specific interceptor

will produce an effluent with no visible grease, and based on defensible analytical results, can demonstrate consistent compliance with established local discharge limits such as BOD, COD, TSS, TPH, or FOG limit in §53.041(A)(2), or other parameters as determined by the POTW; and

- (b) Less than fifteen (15) percent of the wetted height of the grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils, or greases.
- (2) If the grease interceptor, at any time, contains FOG and solids accumulation that does not meet the requirements described in subsection (1)(a) or (b), the owner/operator shall be required to have the grease interceptor or grit trap/oil separator serviced immediately such that all fats, oils, grease, sludge, and other materials are completely removed from the grease interceptor or grit trap/oil separator. If deemed necessary, the Pretreatment Coordinator may also increase the maintenance frequency of the grease interceptor from the current frequency until such time as the owner/operator can demonstrate consistent compliance with subsection (1)(a) and (b).
- (3) The minimum cleaning frequency shall not exceed at least once every one-hundred eight (180) days.

(D) Use of Additives and Bioremediation.

- (1) Additive general prohibition. Additives are prohibited for use as a grease management control and shall not be substituted for the maintenance procedures required by this subchapter unless approved by the Director.
- (2) Additive use approval required. The generator shall not install or utilize any system, process or pretreatment involving the use of enzymes or other chemical additives without prior approval by the Director, unless the system is for the purpose of cleaning and sanitation of equipment and utensils as prescribed in local code. Prior to the use of any additive within the establishment or interceptor or grit trap/oil separator, including, but not limited to, products that contain solvents, emulsifiers, surfactants, caustics, acids, enzymes or bacteria, the generator must obtain approval by the Director on a case-by-case basis. Requests for approval to use additives must be made in writing to the Director using a form provided by the POTW.
- (3) Bioremediation media use approval required. Bioremediation media may be used with the Director's approval if the generator has proved to the satisfaction of the Director that laboratory testing which is appropriate for the type of grease interceptor to be used has verified that:
  - (a) The media is a pure live bacterial product which is not inactivated by the use of domestic or commercial disinfectants and detergents, strong alkalis, acids, and/or water temperatures of 150°F (71°C).
  - (b) The use of the media does not reduce the buoyancy of the grease layer in the grease interceptor and does not increase the potential for FOG to be discharged to the sanitary sewer.

- (c) The use of the bioremediation media does not cause foaming in the grease interceptor or the sanitary sewer.
  - (d) The BOD, COD, and TSS discharged to the sanitary sewer after use of the media does not exceed the BOD, COD, and TSS which would be discharged if the product were not being used and the grease interceptor was being properly maintained. The pH levels must be between 5.5 and 9.5 or as specified in §53.041(A)(2).
  - (e) All testing designed to satisfy the criteria set forth in §53.073(E)(3) shall be scientifically sound and statistically valid. All tests to determine FOG, TSS, BOD, COD, pH, and other pollutant levels shall use appropriate tests which have been approved by the EPA and the TCEQ and which are defined in 40 CFR Part 136.. Testing shall be subject to inspection by the POTW and shall meet the POTW's approval.
  - (f) Requests for approval to use bioremediation must be made in writing to the Director using a form provided by the POTW.
- (E) Abandonment. In the event that the generator ceases operation, the establishment is required to notify the Director in writing at least thirty (30) days prior to ceasing operation to obtain an approval letter and to then obtain a plumbing permit. The generator shall follow the procedures in the approval letter and guidelines developed by the City. If the owner of the business fails to empty the interceptor or trap and to follow the instructions and guidelines, it shall be a violation of this subchapter and become the responsibility of the property owner.

(Ordinance 1508-21-08-24, passed 8-24-21)

#### **§ 53.075. SEWER SYSTEM OVERFLOWS, PUBLIC NUISANCE, ABATEMENT ORDERS AND CLEANUP COSTS.**

Food service establishments found to have contributed to a sewer blockage, sanitary sewer overflow or any sewer system interference resulting from the discharge of wastewater or waste containing FOG, shall be ordered to install and maintain a grease interceptor, and may be subject to preparing and submitting plan to the Director to abate the nuisance and prevent any future sewer line failures and blockages, SSOs or any other sewer system interferences. SSOs may cause threat and injury to public health, safety, and welfare of life and property and are hereby declared public nuisances. Furthermore, sewer lateral failures and SSOs caused by food service establishments alone or collectively, are the responsibility of the private property owner or food service establishment(s), and individual(s) as a responsible officer or owner of the food service establishment. If the City must act immediately to contain and clean up an SSO caused by blockage of a private or public sewer lateral or system serving a food service establishment, or at the request of the property owner or operator of the food service establishment, or because of the failure of the property owner or food service establishment to abate the condition causing immediate threat of injury to the health, safety, welfare, or property of the public, the City's costs for such abatement may be entirely borne by the property owner or operator of the food service establishment, and individual(s) as a responsible officer or owner of the food service establishment(s) and may constitute a debt to the City and become due and payable upon the

City's request for reimbursement of such costs.  
(Ordinance 1508-21-08-24, passed 8-24-21)

### **§ 53.076. RECORDKEEPING REQUIREMENTS.**

The generator shall be required to keep all manifests, receipts and invoices of all cleaning, maintenance, grease removal of/from the grease control device, liquid waste transporter and disposal site location. A copy of these records shall be maintained at the location site.

(A) Liquid waste transporter registration and manifests.

- (1) Liquid waste disposal. A generator of liquid waste shall have all liquid waste material picked up from his/her premises by a liquid waste transporter who holds a valid registration from the TCEQ and holds a valid permit by the City, if issued. The liquid waste shall be transported to an approved site for disposal.
- (2) Manifest record disposition and retention. Copies of transporter manifests shall be returned by the transporter to the waste generator that is signed by the disposal site representative within fifteen (15) days after the waste is received at the disposal or processing facility. The waste generator shall retain a copy of all manifests at the location where the waste is generated. Manifests shall be retained for five (5) years as required by 30 TAC Chapter 312, Subchapter G, Section 312.145, and be readily available for review by the City and the TCEQ upon request. A copy of any and all manifests shall be sent to the Pretreatment Coordinator and the TCEQ upon request.

(B) Records available for review. The generator shall, upon request, make the receipts and invoices available to any City representative, or inspector. These records may include:

- (1) Logs of grease interceptor, grease trap or grease control device cleaning and maintenance practices.
- (2) Record of Best Management Practices being implemented including employee training.
- (3) Records of sampling data and sludge height monitoring for FOG and solids accumulation in the grease interceptors.
- (4) Records of any spills and/or cleaning of the lateral or sewer system.
- (5) Any other information deemed appropriate by the Pretreatment Coordinator to ensure compliance with this subchapter.

(C) Falsifying Information or Tampering with Process. It shall be unlawful to make any false statement, representation, record, report, plan or other document that is filed with the City, or to tamper with or knowingly render inoperable any grease control device or monitoring access point required under this subchapter.

(Ordinance 1508-21-08-24, passed 8-24-21)

### **§ 53.077. NOTIFICATION REQUIRED.**

(A) Notification of spill or potential violation.

- (1) In the event a generator is unable to comply with this subchapter due to a breakdown of equipment, accidents, or human error or the generator has reasonable opportunity to know that his/her/its discharge will exceed the discharge provisions of this subchapter or has the potential to cause or result in sewer blockages or SSOs, the discharger shall immediately notify the Director by telephone as listed below:

Public Utility Director

Phone: 512-990-6400

Fax: 512-989-1052

After Hours Emergency

512-990-6700, Option 0

- (2) Written notification shall be made to the Pretreatment Coordinator no later than five (5) working days from the date of the incident. The written notification shall state the date and time of the incident, the reasons for the discharge or spill, what steps were taken to immediately correct the problem, and what steps are being taken to prevent the problem from recurring.
  - (3) Such notification shall not relieve the generator of any expense, loss, damage, or other liability which may be incurred as a result of damage or loss to the City or any other damage or loss to person or property; nor shall such notification relieve the generator of any fees or other liability which may be imposed by this subchapter or other applicable law.
- (B) Notification of planned changes. The generator shall notify the Director at least sixty (60) days in advance prior to any facility expansion/remodeling, or process modifications that may result in new or substantially increased FOG discharges or a change in the nature of the discharge. The generator shall notify the Director in writing of the proposed expansion or remodeling and shall submit any information requested for evaluation of the effect of such expansion on generator's wastewater discharge characteristics to the sewer system.
- (Ordinance 1508-21-08-24, passed 8-24-21)

#### **§ 53.078. RIGHT-OF-ENTRY: INSPECTIONS AND MONITORING.**

- (A) Inspections. The Pretreatment Coordinator and any third-party inspectors approved by the Director shall have the right to enter the premises of any generator to determine whether the generator is complying with all requirements of this subchapter and any individual wastewater discharge permit or order issued hereunder. Generators shall allow the Pretreatment Coordinator ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
- (1) Where a generator has security measures in force which require proper identification and clearance before entry into its premises, the generator shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, Pretreatment Coordinator and third-party inspectors approved by the



Director shall be permitted to enter without delay for the purposes of performing specific responsibilities covered by this subchapter.

- (2) Unreasonable delays greater than one hour (1) in allowing Pretreatment Coordinator access to the generator's premises shall be a violation of this subchapter.
- (3) The Pretreatment Coordinator shall inspect and monitor each generator at least once per calendar year or more frequently as determined by the Director to determine compliance with this subchapter. For generators that demonstrate compliance with this subchapter consistently for two consecutive years, the Director may adjust the inspection frequency to once every two calendar years.

(B) Monitoring.

- (1) The Pretreatment Coordinator shall have the right to set up on the generator's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the generator's operations.
- (2) The Pretreatment Coordinator may require the generator to install monitoring equipment, as necessary. The generator's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the generator at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.
- (3) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the generator at the written or verbal request of Pretreatment Coordinator and shall not be replaced. The costs of clearing such access shall be born by the generator.
- (4) Each food processing and food service establishment or liquid waste transporter shall determine just prior to evacuation the percent of the wetted height of the grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils, or greases. The percentage of floating solids and the percentage of settle solids shall be recorded on the grease interceptor maintenance log provided by the POTW. The percentage will be used by the Pretreatment Coordinator to estimate the relative amounts of FOG and solids removed from the grease interceptor when evacuated.

- (C) Third-party inspections. The Director is authorized to require each food service and food processing establishment not less frequently than once per calendar year, to cause a licensed plumber or other qualified professional approved by the Director to inspect each GCD. Consecutive inspections shall be scheduled at least three hundred (300) days apart. After complete evacuation of the GCD, the licensed plumber or other qualified professional approved by the Director shall make a visual observation of and shall photograph all inlet and outlet fittings, internal baffles, walls, floor and all other internal structures. Each food service and food processing establishment shall cause the licensed plumber or other qualified professional approved by the Director conducting the inspection to provide a written report of the inspection to the food service and food processing establishment that includes the photographs that are required by this section and that provides the name,

address and telephone number of the licensed plumber or other qualified professional approved by the Director conducting the inspection, the date of the inspection, and a description of any defects observed during the inspection. All defects shall be corrected by each food service and food processing establishment within ninety (90) days of each inspection. The Director reserves the right to require all defects to be corrected by each food service and food processing establishment within less than ninety (90) days or to require no discharge from the GCD until all defects are corrected if significant amounts of FOG would otherwise be discharged from the food service and food processing establishment.

(Ordinance 1508-21-08-24, passed 8-24-21)

### **§ 53.079. BEST MANAGEMENT PRACTICES.**

The Director is authorized to require a food service and food processing establishment to implement BMPs in an effort to minimize the discharge of FOG to the sewer system, including, but not limited to, the following, as applicable:

- (A) Installation of drain screens in sinks and on floors. Drain screens shall be installed on all drainage pipes in the kitchen area and placed in sinks in food preparation areas. Food wastes and grease shall not be flushed or placed down an unscreened drain.
- (B) Waste cooking oil segregation. All waste cooking oil (yellow grease) shall be segregated from brown grease, collected, and stored in recycling containers such as barrels or drums with leak proof covers. The storage area shall be kept clean, and spills reported and cleaned up immediately. Such recycling and storage containers shall be maintained properly to ensure that they do not leak and kept covered except when adding contents. Transporters of yellow grease must be registered by the Texas Department of Health and Human Services as required by Title 25, Part 1, Chapter 221, Subchapter A.
- (C) Disposal of food waste. All food waste shall be removed from plates, pots, and pans directly into the trash, recycling, or compost bin and not into sinks or drains prior to rinsing. The food waste shall be disposed of in a manner that will ensure against leakage in storage of trash containers or anywhere else. The use of food waste disposal units (garbage grinders) is discouraged.
- (D) Employee training. Employees of the FSE should be trained by ownership/management periodically on the following practices:
  - (1) Dry-wiping pots, pans, dishware, and work areas before washing to remove FOG.
  - (2) Properly disposing food waste and solids in plastic bags prior to disposal in trash bins or containers to prevent leaking and odors. Keep containers sealed and dumpster lids closed to prevent rainfall from entering the container.
  - (3) The location and use of absorption products to clean under fryer baskets and other locations where FOG may be spilled or dripped.
  - (4) Properly disposing of grease or oils from cooking equipment into a proper grease receptacle without spilling.
  - (5) Keep drains and screens in place except for when waste material is removed.

- (6) Immediately report spills to supervisor.
  - (7) The Director may require that training of food service establishment employees on §53.079(D)(1)–(6) be documented along with employee signatures. Training records shall be available for review at any time by authorized representatives of the City.
  - (E) Cleaning of exhaust fan filters. Exhaust fan filters shall be cleaned as frequently as necessary to be maintained in good operating condition. The wastewater generated from cleaning exhaust fan filters shall be collected and stored for pickup by a liquid waste transporter or drained into a GCD, unless cleaning chemicals were used. The wastewater generated shall not be disposed of directly to the sanitary sewer nor allowed to be discharged into a storm drain or ditch.
  - (F) Kitchen signage. FOG-related BMPs shall be posted conspicuously in the food preparation and dishwashing areas at all times.
- (Ordinance 1508-21-08-24, passed 8-24-21)

### **§ 53.080. ADMINISTRATIVE ENFORCEMENT REMEDIES.**

#### **(A) Notification of Violation.**

- (1) When the Pretreatment Coordinator finds that a generator has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Pretreatment Coordinator may serve upon that generator a written Notice of Violation. Such notice and order shall state:
  - (a) The nature of the violation and the provisions of this subchapter which have been violated;
  - (b) The corrective action which must be taken and the amount of time allowed to correct the violation.
- (2) Within fourteen (14) calendar days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the generator to the Pretreatment Coordinator. Submission of this plan in no way relieves the generator of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Pretreatment Coordinator to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

#### **(B) Consent Orders.** The City may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any generator responsible for noncompliance. Such documents shall include specific action to be taken by the generator to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §53.049(D) of the industrial wastes ordinance and shall be judicially enforceable.

#### **(C) Show Cause Hearing.** The City may order a generator which has violated, or continues to

violate, any provision of this subchapter, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Pretreatment Coordinator and show cause why the proposed enforcement action should not be taken. Notice shall be served on the generator specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the generator show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served electronically or by registered or certified mail (return receipt requested) at least fifteen (15) days prior to the hearing. Such notice may be served on any Authorized Representative of the generator. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the generator.

(D) Administrative Orders.

- (1) Compliance Orders. When the Pretreatment Coordinator finds that a generator has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may issue an order to the generator responsible for the discharge directing that the generator come into compliance within a specified time. If the generator does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the generator of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the generator. The Pretreatment Coordinator may grant a variance in compliance dates to a generator when, in the Pretreatment Coordinator's opinion, such action is necessary to achieve pretreatment or corrective measures.
- (2) Cease and Desist Orders. When the Pretreatment Coordinator finds that a generator has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the generator's past violations are likely to recur, the City may issue an order to the generator directing it to cease and desist all such violations and directing the generator to:
  - (a) Immediately comply with all requirements; and
  - (b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the generator.

(E) Administrative Fines.

- (1) When the Pretreatment Coordinator finds that a generator has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit or order issued

hereunder, or any other Pretreatment Standard or Requirement, the City may fine such generator in an amount not to exceed Two Thousand Dollars (\$2,000.00) on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

- (2) Generators desiring to dispute such fines must file a written request for the City to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Where a request has merit, the City may convene a hearing on the matter within thirty (30) business days. In the event the generator's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the generator. The City may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- (3) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the generator.

(F) Emergency Suspensions.

- (1) The Director may immediately suspend a generator's discharge, after informal notice to the generator, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a generator's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.
  - (a) Any generator notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a generator's failure to immediately comply voluntarily with the suspension order, the Pretreatment Coordinator may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director may allow the generator to recommence its discharge when the generator has demonstrated to the satisfaction of Pretreatment Coordinator that the period of endangerment has passed unless the termination proceedings in §53.049(G) of the industrial wastes ordinance are initiated against the generator.
  - (b) A generator that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Pretreatment Coordinator prior to the date of any show cause or termination hearing under §53.049(C) or (F) of the industrial waste ordinance.
- (2) Nothing in this section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

(G) Termination of Discharge. In addition to the provisions in §53.044(E) of the industrial wastes ordinance, any generator who violates the following conditions is subject to discharge termination:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (4) Refusal of reasonable access to the generator's premises for the purpose of inspection, monitoring, or sampling; or
- (5) Violation of the Pretreatment Standards in §53.041 of the industrial wastes ordinance.
- (6) Such generator will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under §53.049(C) of the industrial wastes ordinance why the proposed action should not be taken. Exercise of this option by the City shall not be a bar to, or a prerequisite for, taking any other action against the generator.

(Ordinance 1508-21-08-24, passed 8-24-21)

#### **§ 53.081. JUDICIAL ENFORCEMENT REMEDIES.**

- (A) Injunctive Relief. When Pretreatment Coordinator finds that a generator has violated, or continues to violate, any provision of this subchapter, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may petition the appropriate District Court through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this subchapter on activities of the generator. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the generator to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a generator.
- (B) Civil Penalties.
  - (1) Civil Penalty - Generator. If the Director determines that a generator is responsible for a blockage in the wastewater system, the generator shall owe a civil penalty of \$1,000.00 for the first violation, \$1,500.00 for a second violation, and \$2,000.00 for the third violation within a two-year period. After the third violation, each successive violation within a two-year period shall result in an increase in civil penalty by \$500.00 and may also result in termination of services. The collection of a civil penalty does not preclude assessing a surcharge or cost recovery fee or filing a criminal action for violating a provision of this subchapter but is in addition to a possible surcharge or cost recovery fee, or criminal action.
  - (2) Civil Penalty - Person. Any person (other than the generator) violating any of the provisions of this subchapter shall be subject to a written warning for the first violation, a \$1,000.00 civil penalty for the second violation, a \$1,500.00 civil penalty for the third violation, and a \$2,000.00 civil penalty for the fourth violation within a two-year period. After the fourth violation, each successive violation within a two-year

period shall result in a \$500.00 increase in civil penalty and may result in termination of service. The collection of a civil penalty does not preclude assessing a surcharge or cost recovery fee or filing a criminal action for violating a provision of this subchapter but is in addition to a possible surcharge or cost recovery fee or criminal action.

- (3) The City may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- (4) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the generator's violation, corrective actions by the generator, the compliance history of the generator, and any other factor as justice requires.
- (5) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a generator.

(C) Criminal Prosecution.

- (1) A generator who willfully or negligently violates any provision of this subchapter, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than Two Thousand Dollars (\$2,000.00) per violation, per day, or imprisonment as decided by the appropriate District Court, or both.
- (2) A generator who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a maximum penalty of Two Thousand Dollars (\$2,000.00) per violation, per day, or be subject to imprisonment as decided by the appropriate District Court, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- (3) A generator who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this subchapter, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this subchapter shall, upon conviction, be punished by a fine of not more than Two Thousand Dollars (\$2,000.00) per violation, per day, or imprisonment as decided by the appropriate District Court, or both.
- (4) Criminal Responsibility: A person is criminally responsible for a violation of this subchapter if the person negligently, knowingly, or willfully commits or assists in the commission of a violation, or causes or permits another person to commit a violation.

(D) Remedies Nonexclusive.

- (1) The remedies provided for in this subchapter are not exclusive. The City may take any, all, or any combination of these actions against a noncompliant generator.

- (2) Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City may take other action against any generator when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any noncompliant generator.

(Ordinance 1508-21-08-24, passed 8-24-21)

## **§ 53.082. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS.**

### **(A) Act of God Defense.**

- (1) Act of God defense: The Act of God defense constitutes a statutory affirmative defense [Texas Water Code §7.251] in an action brought in municipal or State court. If a person can establish that an event that would otherwise be a violation of this subchapter, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of the ordinance or permit.
- (2) A generator who wishes to establish the Act of God affirmative defense shall demonstrate, through relevant evidence that:
  - (a) An event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance occurred, and the sole cause of the event was an act of God, war, strike, riot or other catastrophe; and
  - (b) The generator has submitted the following information to the City within 24 hours of becoming aware of the event that would otherwise be a violation of a pretreatment ordinance or permit issued under the ordinance (if information is provided orally, a written submission must be provided within five (5) days):
    - (i) A description of the event, and the nature and cause of the event;
    - (ii) The time period of the event, including exact dates and times or, if still continuing, the anticipated time the event is expected to continue; and
    - (iii) Steps being taken or planned to reduce, eliminate, and prevent recurrence of the event.
- (3) Burden of proof. In an enforcement, the generator seeking to establish the Act of God affirmative defense shall have the burden of proving by a preponderance of the evidence that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot or other catastrophe.

- (B) Bypass. No liquid or solid waste that contains FOG shall be discharged directly into the POTW. All liquids and solids that contain FOG must be discharged into a GCD or grit trap/oil separator before any such discharges enter the POTW. Should a GCD or grit trap/oil separator require repair, upon written request to and the receipt of written approval from the Director a bypass of the GCD or grit trap/oil separator shall be permitted for the duration of the repair, but in no event for more than eighteen (18) consecutive hours, or as specified by the Director. Each generator shall create a written record that describes the repairs made to the GCD and grit trap/oil separator, the date and time of the commencement of any GCD



and grit trap/oil separator repairs and of any bypass during the repairs, who performed the repairs, and the date and time of the termination of the repairs and bypass. The written record shall be made available for review by the Director upon request.  
(Ordinance 1508-21-08-24, passed 8-24-21)

### **§ 53.083. MISCELLANEOUS PROVISIONS.**

- (A) Pretreatment Charges and Fees. The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's FOG Management Program, which may include but not be limited to:
- (1) Fees for FSE wastewater discharge permit applications including the cost of processing such applications;
  - (2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a generator's discharge, and reviewing monitoring reports and certification statements submitted by generators;
  - (3) Fees to recover cost to the City including but not limited to labor, equipment, containment, and disposal costs for responding the sewer blockages, SSOs, and sewer line backups into residences, multifamily units, and commercial businesses that are caused by FOG discharges from generators;
  - (4) Fees to recover the cost of actual damages to the City's sewer system including pipes, manholes, lift stations and pumps, and air-release valves that are caused by FOG accumulations caused by discharges from generators;
  - (5) Fees for reviewing and responding to accidental discharge procedures and construction;
  - (6) Fees for filing appeals;
  - (7) Fees to recover administrative and legal costs associated with the enforcement activity taken by the Pretreatment Coordinator to address generator noncompliance; and
  - (8) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this subchapter and are separate from all other fees, fines, and penalties chargeable by the City.
- (B) Surcharge for High Strength Wastewater.
- (1) A generator discharging wastewater to the POTW with BOD, COD, TSS, Ammonia-Nitrogen, and Phosphorus of concentrations higher than normal domestic wastewater as defined in §53.040(D)(44) or FOG as defined in §53.041(A)(2)(q) shall pay a monthly surcharge in addition to the usual monthly sewer charge.
  - (2) The City shall calculate the surcharge under this section as prescribed in §53.052(B)(2)–(5).
  - (3) Payment of any surcharge under this section does not constitute a waiver of any of the prohibited discharge standards in §53.041, nor does it relieve the user from the obligation to meet all pretreatment requirements in this subchapter.

(Ordinance 1508-21-08-24, passed 8-24-21)