

ORDINANCE NO. 39-2020

AN ORDINANCE AMENDING CHAPTER 32, "UTILITIES", ARTICLE III, "INDUSTRIAL WASTES" OF THE ABILENE MUNICIPAL CODE BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, the City Council of the City of Abilene (City) affirms that the City has an approved Industrial Waste Pretreatment Program that is compliant with all applicable state and federal laws, including the Clean Water Act (33 United States Code §1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403) (CFR); and

WHEREAS, the CFR requires that the City periodically review its Technically Based Local Limits (TBLL) to determine compliance, and the major renovation of the Hamby Water Reclamation Facility and observed changes in the number and type of industrial facilities discharging into the City's Publicly Owned Treatment Works resulted in the need to perform a study of the Technically Based Local Limits and make revisions to the TBLL of the City's Industrial Waste Ordinance based on those findings; and

WHEREAS, the Pretreatment Streamlining Rule, published by the Environmental Protection Agency in 2005, required that certain procedural changes be implemented into the City's Pretreatment Program and making certain revisions to the City's Industrial Wastes Ordinance to ensure compliance and enforceability of the Pretreatment Program; and

WHEREAS, in recognition of the City's commitment to comply with state and federal regulations and to protect the health and well being of its citizens, it has become necessary to revise and amend the Industrial Wastes Article of the Code of the City of Abilene; and

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

PART 1: That Chapter 32, "Utilities", Article III "Industrial Wastes" of the City of Abilene Municipal Code, be amended as set out in Exhibit "A", attached hereto and made a part of this ordinance for all purposes.

PART 2: That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

EXHIBIT A

**CHAPTER 32 UTILITIES
ARTICLE III. INDUSTRIAL WASTES**

Sec. 32-57. General Provisions.

(a) **Purpose and Policy.** This article sets forth uniform requirements for users of the publicly owned treatment works for the City of Abilene (City) and enables the City to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403) (CFR). The objectives of this ordinance are:

- (1) To prevent the introduction of Pollutants into the publicly owned treatment works that will cause Interference with its operation;
- (2) 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;
- (3) To protect publicly owned treatment works personnel who may be affected by wastewater and sludge in the courts of their employment and to protect the general public;
- (4) To improve the opportunity to recycle and reclaim wastewater and sludge from the publicly owned treatment works;
- (5) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and
- (6) To enable the City to comply with its TPDES permit conditions, as issued by the Texas Commission on Environmental Quality (TCEQ), sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

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

(b) **Administration.** Except as otherwise provided herein, the Director shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other city personnel.

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

BOD	Biochemical oxygen demand
BMP	Best Management Practices
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	U.S. Environmental Protection Agency
FOG	Fats, oil, and grease

gpd	gallons per day
L	liter
mg	milligrams
mg/L	milligrams per liter
TPDES	Texas Pollutant Discharge Elimination System
POTW	Publicly owned treatment works
QA/QC	Quality assurance/quality control
RCRA	Resource Conservation and Recovery Act
SIC	Standard industrial classification
TCEQ	Texas Commission on Environmental Quality
TOC	Total organic carbon
TPH	Total petroleum hydrocarbons
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 article, shall have the meanings hereinafter designated.

Abnormal Industrial Waste. Any permitted industrial waste having a pollutant content in excess of that found in Normal Waste, but which is otherwise acceptable to a sanitary sewer under the terms of this article.

Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

Approval Authority. The Executive Director of the Texas Commission on Environmental Quality.

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 operation 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 the 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 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 another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Director.

Best Management Practices (BMPs). The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 32-58 of this Article. 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. BMPs also include alternative means (i.e., management plans) of complying with or in place of certain established categorical pretreatment standards and effluent limits.

Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration [milligrams per liter (mg/L)].

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

City. The City of Abilene or the City Council of Abilene.

Categorical Industrial User (CIU). An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

Composite sample. A combination of individual samples of wastewater taken at preselected intervals to minimize the effect of the variability of the individual sample. Individual subsamples may be of equal volume or may be proportional to the flow at the time of sampling.

Control Authority. The City of Abilene.

Daily 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.

Daily Discharge. The discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.

Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

Daily Maximum Limit. The maximum concentration (or loading) of a pollutant allowed to be discharged into the publicly owned treatment works during a calendar day or any twenty-four (24) hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, it is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, it is calculated as the average measurement of the pollutant over the day.

Director. The Director of the City of Abilene Water Utilities Department, or his/her duly authorized representative.

Domestic Waste (or Domestic Wastewater). Waterborne waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, and institutions, free from stormwater, surface water, and industrial waste.

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

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

Hazardous Waste. Any substance which, if disposed of otherwise than by discharge into the POTW, would be identified as a hazardous waste under 40 CFR Part 261.

Hold-haul Tank. A storage tank installed by a user to hold industrial waste, the contents of which are prohibited from being discharged to the sanitary sewer and must be hauled to an approved disposal site.

Industrial User or User. Any person who discharges Industrial Waste into the publicly owned treatment works (POTW), any other source of "Indirect Discharge" as defined herein, and any waste hauler discharging waste or wastewater into the POTW.

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

Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

Instantaneous Maximum Allowable Discharge Limit. The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference. A discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City's TPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; [and the Marine Protection, Research, and Sanctuaries Act].

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.

New Source.

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of Pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

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

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (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
 - (i) Any placement, assembly, or installation of facilities or equipment; or
 - (ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- 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 which does not come into direct contact with any raw material, pollutant, intermediate product, waste product, or finished product.

Normal Waste. Waste from non-industrial sources which, when analyzed, indicates that:

- a. The concentration of BOD in the waste will not exceed two hundred (200) milligrams per liter (mg/L) average over any twenty-four-hour period; and

- b. The concentration of total suspended solids (TSS) in the waste will not exceed two hundred (200) milligrams per liter (mg/L) average over any twenty-four-hour period; and,
- c. The concentration of total organic carbon (TOC) in the waste will not exceed two hundred (200) milligrams per liter (mg/L) average over any twenty-four-period; and
- d. The concentration of free or emulsified animal oil, vegetable oil or grease (FOG) will not exceed one hundred (100) mg/L; and
- e. The concentration of total petroleum hydrocarbons (TPH) will not exceed twenty (20) mg/L; and
- f. The quantity of other pollutants shall be those levels determined in the latest domestic waste survey.

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 the City's TPDES permit (including an increase in the magnitude or duration of a violation)

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. The logarithm of the reciprocal of the hydrogen ion activity as measured and calculated in accordance with approved methods.

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, dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, chemical oxygen demand (COD), toxicity, or odor].

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

Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment Standards or Standards. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5.

Process Wastewater. Any water that, during manufacturing or processing, comes into direct contact with or results from production or use of any raw material, intermediate product, finished product, or waste product.

Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 32-58 of this article.

Publicly Owned Treatment Works (POTW). A "treatment works," as defined by Section 212 of the Act (33 U.S.C. § 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 sewer which carries wastewater to which storm, surface, and ground waters are not intentionally admitted.

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.)

Significant Industrial User or (SIU).

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

Similar Installation. Gasoline dispensing facilities which furnish equipment for or have designated areas for any of the following types of vehicle maintenance service: oil changes, lubrication, mechanical repair, or car wash.

Slug, Slug Load, or Slug Discharge. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 32-58 of this article. Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or permit conditions.

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

State. The State of Texas.

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

Surcharge. The additional wastewater charge levied against any person for discharging abnormal industrial waste into the POTW.

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

TOC (total organic carbon). The measure of organic carbon present in water, wastewater, industrial waste or other liquid as determined by standard laboratory procedure as specified in 40 CFR Part 136, or as approved by EPA, expressed as milligrams per liter (mg/L).

Treatment Plant Effluent. The discharge from the POTW into waters of the United States.

User. Any person who discharges industrial waste into the POTW, any other source of "Indirect Discharge" as defined herein, and any waste hauler discharging waste or wastewater into the POTW.

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

Wastewater Discharge Permit (or Permit). A permit to discharge pollutants, waste, or wastewater into the POTW that is issued by the City to significant industrial users, waste haulers, and other users as necessary to carry out the purposes of this article.

Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

Waste Hauler. Any person who transports industrial waste or wastewater, chemically-treated human waste, septic tank waste and/or trap waste.

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

(Ord. No. 36-1992, Pt. 1, 9-24-92; Ord. No. 36-2003, pt. 1(Exh.A), 9-25-03)

Sec. 32-58. 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, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;

- b. Wastewater having a pH less than five (5.0) or more than eleven (11), or otherwise causing corrosive structural damage to the POTW or equipment;
- c. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than one-half inch in any dimension;
- 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 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°F (40°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 Director in accordance with Section 32-59(d) of this article;
- 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 as specifically approved by the Director in compliance with applicable state or federal regulations;
- l. Storm water, surface water, ground water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Director;
- m. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- n. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- o. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(b) Federal Categorical Pretreatment Standards. The National Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 403.6 and 405–471 are hereby incorporated.

(c) State Pretreatment Standards. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.

(d) Local Limits.

(1) The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits:

1.00 mg/L Arsenic

0.40 mg/L Cadmium

1.30 mg/L Chromium

4.50 mg/L Copper

5.10 mg/L Lead

0.014 mg/L Mercury

2.50 mg/L Nickel

0.71 mg/L Selenium

0.80 mg/L Silver

4.20 mg/L Zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Director may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

(2) No user shall introduce or cause to be introduced into the POTW wastewater containing any of the following amounts or levels of pollutants or substances:

a. True color which passes through the POTW greater than forty (40) color units.

b. Free or emulsified animal or vegetable oil or grease (FOG) exceeding two hundred (200) mg/L instantaneous maximum. Exceedance of the instantaneous maximum limit is a violation of the City's industrial pretreatment program only if any of the conditions specified below are present.

i. Will solidify or become discernibly viscous at any temperature between 32 degrees Fahrenheit and 90 degrees Fahrenheit;

ii. Deposit grease or oil in the sewer lines in such manner as to clog the sewers;

iii. Overload the user/discharger's skimming and grease handling equipment;

- iv. Are not amenable to biological oxidation and will therefore pass to the receiving waters without being affected by normal sewage treatment processes;
 - v. Have deleterious effects on the treatment process due to the excessive quantities; or
 - vi. Cause objectionable odors.
- c. Total petroleum hydrocarbons (TPH) exceeding one hundred sixty-seven (167) lbs. per day.

(e) City's Right of Revision. The City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

(f) Special Agreement. The City reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. A user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. A user also may request a variance from the categorical pretreatment standard from the approval authority. Such a request will be approved only if the user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that categorical pretreatment standard. A user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

(g) Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. No. 36-1992, Pt. 1, 9-24-92; Ord. No. 36-2003, pt. 1(Exh. A), 9-25-03)

Sec. 32-59. Pretreatment of Wastewater.

(a) Pretreatment Facilities. Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 32-58(a) of this article within the time limitations specified by the EPA, the state, or the Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Director for review, and shall be acceptable to the Director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Director under the provisions of this article.

(b) Traps and Interceptors. Grease, oil and sand traps, catch basins, interceptors or hold-haul tanks; additional pretreatment measures.

(1) Grease, oil and sand traps, catch basins, interceptors or hold-haul tanks shall be provided for the proper handling of waste containing grease in excessive amounts, sand, and other prohibited materials; however, interceptors, traps and catch basins are not required for private living quarters or dwellings. All interceptors, traps and catch basins shall meet the City Plumbing Code as filed in the Code Administration. All fixtures draining to interceptors, traps and/or catch basins shall be rated as specified

in the City of Abilene Plumbing Code. The Code may be revised from time to time as necessary. Hold-haul tanks shall not be connected to the sanitary sewer.

a. All interceptors, traps and catch basins shall be located so as to be readily and easily accessible for cleaning and inspection. They shall be of substantial construction and equipped with easily removable covers or grates. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature.

b. Where installed, all grease, oil and sand traps and/or interceptors shall be maintained by the owner or occupant at his/her own expense and in continuously efficient operation.

c. A facility which generates liquid waste shall have all traps serviced by a licensed transporter at a frequency which ensures the elimination of drain blockages, overflows and emissions of concentrations of contaminants which exceeds discharge limits. The Director may also require traps to be serviced on a single event basis or schedule basis if the Director deems it necessary for proper operation of trap.

d. Materials removed from these facilities shall be either utilized by industry or disposed of at approved locations. The owner(s) shall verify the accuracy of the trip ticket from the transporter and maintain a copy of all trip tickets for a period of five years at the site of generation, unless otherwise approved by the City. The Director may inspect and copy these records at any time.

- (2) A generator of liquid waste shall maintain sanitary conditions, free of litter and odors. They shall also immediately report spills and accidents involving liquid waste to the Director. Spills shall be cleaned up immediately and all unsanitary conditions abated, and have materials used for abatement, such as absorbent materials, disposed of by approved means in a timely manner.
- (3) Use of hot water, enzymes, chemicals, or other agents or devices for the purpose of causing the oil, grease, or sand to pass through the trap, interceptor, or any other such facility provided is prohibited.
- (4) Carwash Facilities, Service Stations and Similar Installations. All wash facilities shall be protected from rain and runoff.
 - a. *Existing Installations.* Those facilities in operation as of September 1983, having drainage from those areas protected from the rain and runoff and provided with grease, oil, and sand traps as specified in Section 32-59 (b)(1). above, and which are in use, shall be connected to the sanitary sewer.
 - b. *New Installations.* Facilities constructed after September 1983 shall be provided with grease, oil, and sand traps as specified in Section 32-59 (b)(1). above with discharge into the sanitary sewer.
- (5) Machine Shops, Garages, Special Manufacturing Facilities. Drainage from the work area of machine shops or of any industry that manufactures, rebuilds or overhauls motors, engines, transmissions, hydraulic systems or similar machinery may be discharged to the sanitary sewer only if the effluent can meet all the requirements of this ordinance.
- (6) Steam Cleaning and Chemical Cleaning Facilities. Drainage from steam cleaning and/or chemical cleaning facilities shall not be discharged to the sanitary sewer unless a facility or process is provided that will consistently and constantly produce an effluent containing no hazardous waste or other pollutant that will cause pass through or interference.

- (7) Any sewer line stoppage, damage or restriction of flow caused by an illegal discharge shall be considered a violation of this ordinance and the person or persons responsible will be held liable.
- (8) Whenever deemed necessary, the Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
- (9) The Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- (10) 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 Control Plans. The Director shall evaluate whether each Significant Industrial User needs an accidental discharge/slug control plan within one (1) year of being designated an SIU. The Director 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. Alternatively, the Director may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the POTW of any accidental or slug discharge, as required by Section 32-62(f) of this article; 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 Waste and Wastewater.

(1) No waste hauler may discharge any industrial waste or wastewater, septic tank waste, chemically-treated human waste, and/or any trap waste into the POTW without first obtaining a wastewater discharge permit from the Director. The Director may prohibit the discharge of any such hauled waste. The Director also may issue wastewater discharge permits to any generators of hauled industrial waste. The discharge of hauled waste is subject to all other requirements of this ordinance.

a. Trip tickets. Persons who collect and transport waste subject to control under state rule 30 TAC 312.145 shall maintain a record of each individual collection and deposit. Such records will be in the form of a trip ticket and shall include:

Name, address, telephone, and TCEQ registration number of transporter;

Name, signature, address, and phone number of the person who generated the waste and the date collected;

Type and amount(s) of waste collected or transported;

Name and signature(s) of responsible person(s) collecting, transporting, and depositing the waste;

Date and place where the waste was deposited;

Identification (permit or site registration number, location, and operator) of the facility where the waste was deposited; and;

Name and signature of facility on-site representative acknowledging receipt of the waste and the amount of waste received;

The volume of the grease and grit trap or the septic tank.

b. Records and reporting of trip tickets shall be maintained as follows:

One part of the trip ticket shall have the generator and transporter information completed and given to the generator at the time of waste pickup;

The remaining parts of the trip ticket shall have all required information completely filled out and signed by the appropriate party before distribution of the trip ticket;

One part of the trip ticket shall go to the receiving facility;

One part shall go to the transporter, who shall retain a copy of all trip tickets showing the collection and disposition of waste;

One copy of the trip ticket shall be returned by the transporter to the person who generated the wastes within 15 days after the waste is received at the disposal or processing facility;

Copies of trip tickets shall be retained for five years and be readily available for review by City or be submitted to the City upon request.

(2) Waste haulers may discharge loads only at locations designated by the Director. No load may be discharged without prior consent of the Director. The Director may collect samples of each hauled load to ensure compliance with applicable standards. The Director may require the waste hauler to provide a waste analysis of any load prior to discharge.

(3) Industrial waste haulers who discharge any industrial waste or wastewater into the POTW 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. The Director may require such waste-tracking forms to be provided by haulers of nonindustrial trap waste, septic tank waste, or chemically-treated human waste that is discharged into the POTW.

(4) Any person hauling industrial waste or wastewater, septic tank waste chemically-treated human waste, and/or trap waste generated within the Abilene city limits that is not discharged into the POTW must provide written notice of such waste hauling to the Director specifying, at a minimum, the name

and address of the waste hauler and the location at which the waste is disposed of. The Director may prohibit disposal within the City of any such hauled waste.

(Ord. No. 36-1992, Pt. 1, 9-24-92; Ord. No. 36-2003, pt. 1(Exh. A), 9-25-03)

Sec. 32-60. Wastewater Discharge Permit.

- (a) **Wastewater Survey.** When requested by the Director, a User must submit information on the nature and characteristics of its wastewater by completing a wastewater survey within the time specified by the Director. The Director is authorized to prepare a form for this purpose and may periodically require users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the user and shall be considered a violation of this article.
- (b) **Wastewater Discharge Permit Requirement.**
- (1) No Significant Industrial User or Waste Hauler shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director.
 - (2) The Director may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this article.
 - (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in Sections 32-66 through 32-68 of this article. 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 Permits.** Permits in force at the time of this ordinance passage shall expire at the date specified by the permit.
- (d) **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 article without a permit and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the Director for a wastewater discharge permit in accordance with Section 32-60(f) of this article, and shall not cause or allow discharges to the POTW to continue after one hundred eighty (180) days of the effective date of this article except in accordance with a wastewater discharge permit issued by the Director.
- (e) **Wastewater Discharge Permitting: New Connections.** Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 32-60(f) of this article, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.
- (f) **Wastewater Discharge Permit Application Contents.** All users required to obtain a wastewater discharge permit must submit a permit application. The Director may require all users to submit as part of an application the following information:
- (1) All information required by Section 32-62(a)(2) of this article;

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

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

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

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

(h) Accurate Designation of Authorized Representative. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the Director prior to or together with any reports to be signed by an Authorized Representative.

(i) Wastewater Discharge Permit Decisions. The Director will evaluate the data furnished by the user and may require additional information. Within ninety (90) days of receipt of a complete wastewater discharge permit application, the Director will determine whether or not to issue a wastewater discharge permit. The Director may deny any application for a wastewater discharge permit.

(Ord. No. 36-1992, Pt. 1, 9-24-92)

Sec. 32-61. 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 Director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

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

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

- a. A statement that indicates wastewater discharge permit issuance date, expiration date, effective date, and 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 Section 32-61(e) of this article, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- c. Effluent limits, including BMPs, based on applicable pretreatment standards;
- d. Self monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants (or BMPs) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
- e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.
- f. Requirements to control slug discharge, if determined by the Director to be necessary.

(2) Wastewater discharge permits may contain, but need not be limited to, the following conditions as deemed appropriate by the Director to ensure compliance with this article, and state and federal laws, rules, and regulations.

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

h. Other conditions as deemed appropriate by the Director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

(c) Wastewater Discharge Permit Appeals. The Director shall provide public notice of the issuance, modification, or denial of a wastewater discharge permit. Any affected person, including the user, may petition the Director to reconsider the terms of an issued or modified wastewater discharge permit, or the denial of a permit, within thirty (30) days of notice of its issuance, modification, or denial.

(1) Failure to submit a timely petition for reconsideration shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the wastewater discharge permit provision(s) objected to, provide a full explanation of the reasons for the objection(s), and identify the alternative condition(s), if any, it seeks to place in the wastewater discharge permit.

(3) The effectiveness of the wastewater discharge permit, as issued or modified, shall not be stayed pending the appeal unless the Director expressly so states.

(4) The Director shall respond in writing to any petition for reconsideration within sixty (60) days. In his response, the Director shall indicate his decision whether to affirm or modify the terms of any permit issued or modified, or whether upon reconsideration to deny the permit. If the permit was initially denied, the Director shall indicate his decision whether to affirm the initial denial or to vacate the initial denial and issue the permit upon specified terms. The Director's action upon any petition for reconsideration shall be considered final for purposes of any judicial review.

(5) If the Director fails to act on any petition for reconsideration within sixty (60) days, the petition for reconsideration shall be deemed to be denied. Such deemed denial shall be considered final administrative action for purposes of judicial review.

(6) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint in a court of competent jurisdiction within the appropriate statute of limitations.

(d) Wastewater Discharge Permit Modification. The Director may modify the wastewater discharge permit for good cause including, but not limited to, the following:

(1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

- (4) Information indicating that the permitted discharge poses a threat to the City's POTW, city personnel, or the receiving waters;
- (5) Violation of any terms or conditions of the wastewater discharge permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (8) To correct typographical or other errors in the wastewater discharge permit;
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

(e) Wastewater Discharge Permit Transfer. Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the Director and the Director approves the wastewater discharge permit transfer. The notice to the Director must include a written certification by the new owner or operator which:

- (1) States that the owner and/or operator has no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge

permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable as of the date of facility transfer.

(f) Wastewater Discharge Permit Revocation. Wastewater discharge permits may be revoked for, but not limited to, the following reasons:

- (1) Failure to notify the Director of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the Director of changed conditions pursuant to Section 32-62(e) of this article;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring reports and certification statements;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the Director timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;

- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility;
or
- (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

A user will be notified of any proposed permit revocation and offered an opportunity to show cause under Section 32-66(c) of this article why the proposed revocation should not occur.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(g) Wastewater Discharge Permit Reissuance. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 32-60(f) of this article, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.

(h) Regulation of Waste Received from Other Jurisdictions.

(1) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the City Council shall enter into an intermunicipal agreement with the contributing municipality.

(2) Prior to entering into an agreement required by paragraph (1), above, the Director 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 Industrial Users located within the contributing municipality that are discharging to the POTW; and
- c. Such other information as the Director may deem necessary.

(3) An intermunicipal agreement, as required by paragraph (1) above, shall contain the following conditions:

- a. A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this article and local limits including required BMPs, which are at least as stringent as those set out in Section 32-58(d) of this article. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or local limits;

- b. A requirement for the contributing municipality to submit a revised industrial user inventory on at least an annual basis;
- c. 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 Director; and which of these activities will be conducted jointly by the contributing municipality and the Director;
- d. A requirement for the contributing municipality to provide the Director with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- e. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- f. Requirements for monitoring the contributing municipality's discharge;
- g. A provision ensuring the Director 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 Director; and
- h. A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

(Ord. No. 36-1992, Pt. 1, 9-24-92)

Sec. 32-62. Reporting Requirements.

(a) Baseline Monitoring Reports.

(1) Within either one hundred and eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4) (whichever is later) existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the Director a report which contains the information listed in paragraph (2), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Director a report which contains the information listed in paragraph (2) below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(2) Users described above shall submit the information set forth below.

- a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.
- b. *Environmental permits.* A list of any environmental control permits held by or for the facility.

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

d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestreams formula set out in 40 CFR 403.6(e).

e. *Measurement of pollutants.*

1. The categorical pretreatment standards applicable to each regulated process.

2. The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the Director of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 32-62(j) of this article. Where the standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Director or the applicable standards to determine compliance with the standard.

3. Sampling must be performed in accordance with procedures set out in Section 32-62(k) of this article.

f. *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 and M) and/or additional pretreatment, is required to meet the pretreatment standards and requirements.

g. *Compliance schedule.* If additional pretreatment and/or O and M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O and M. 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 Section 32-62(b) of this article.

h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with Section 32-60(g) of this article.

(b) Compliance Schedule Progress Reports. The following conditions shall apply to the compliance schedule required by Section 32-62(a)(2)(g) of this article:

(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, 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 the Director 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 the Director.

(c) Reports on Compliance with Categorical Pretreatment Standard Deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Director a report containing the information described in Section 32-62(a)(2)d–f of this article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other 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. All compliance reports must be signed and certified in accordance with Section 32-60(g) of this article.

(d) Periodic Compliance Reports.

(1) All Significant Industrial Users shall, at a frequency determined by the Director but in no case less than twice per year (in July and January), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 32-60(g) of this article. In cases where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the User must submit documentation required by the Director or the pretreatment standard necessary to determine the compliance status of the User.

(2) 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.

(3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Director, using the procedures prescribed in Section 32-62(j) of this article, the results of this monitoring shall be included in the report.

(e) Report of Changed Conditions. Each User must notify the Director of any planned significant changes to the user's operations or system which might alter the nature, decrease the quality, or increase the volume of its wastewater at least ninety (90) days before the change.

(1) The Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 32-60(f) of this article.

(2) The Director may issue a wastewater discharge permit under Section 32-60(h) of this article or modify an existing wastewater discharge permit under Section 32-61(d) of this article in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty-five (25) percent or greater, and the discharge of any previously unreported pollutants.

(f) Reports of Potential Problems.

(1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume (if known) and corrective actions taken by the user.

(2) Within five (5) days following such discharge, the user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this article.

(3) Failure to notify the Director of potential problem discharges shall be deemed a violation of this article.

(4) 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 may cause such a discharge to occur, are advised of the emergency notification procedure.

(5) Users are required to notify the Director immediately of any changes at its facility affecting the potential for a slug discharge.

(g) Reports from Unpermitted Users. All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Director as the Director may require.

(h) Notice of Violation/Repeat Sampling and Reporting. If sampling performed by a user indicates a violation, the user must notify the Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation. Resampling by the User is not required if the City performs sampling at the user's facility at least once per month, or if the City performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the Industrial User. If the Director performed the sampling and analysis in lieu of the user, the Director will perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform repeat sampling and analysis.

(i) Notification of the Discharge of Hazardous Waste.

(1) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of

any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 32-62(e) of this article. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Sections 32-62(a), (c) and (d) of this article.

(2) Dischargers are exempt from the requirements of paragraph (1), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(4) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable federal or state law.

(j) **Analytical Requirements.** All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the Director.

(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 (k)(2) and (3), below, wastewater samples must be collected using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the Director, 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; total residual chlorine, pH, and temperature samples may not be composited under any circumstances. In the event flow proportional sampling is infeasible, the Director may authorize the use of time proportional sampling or a minimum of four (4) grab samples (either composited or analyzed separately) where the user demonstrates that this will provide a representative sample of the effluent being discharged. Composite samples for other parameters unaffected by the composting procedures as documented in approved EPA methodologies may be authorized by the Director, as appropriate. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

(3) For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 32-62(a) and (c) [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For reports required by Section 32-66(d) [40 CFR 403.12(e) and (h)], the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

(4) All samples collected for analysis shall be accompanied by a properly completed Chain of Custody.

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

(m) **Recordkeeping.** Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements and documentation associated with BMPs. 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; the results of such analyses; and all QA/QC data required by permit. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the Director.

(n) **Fraud and False Statements.** The reports and other documents required to be submitted or maintained by local, state, or federal law shall be subject to:

(1) The provisions of 18 U.S.C. Section 1001 regarding fraud or false statements:

(2) The provisions of 309(c)(4) of the Act, as amended, governing false statements, representations, or certifications; and

(3) The provisions in Section 309(c)(6) of the Act regarding responsible corporate officers.

(Ord. No. 36-1992, Pt. 1, 9-24-92; Ord. No. 36-2003, pt. 1(Exh. A), 9-25-03)

Sec. 32-63. Compliance Monitoring.

(a) **Right of Entry, Inspection And Sampling.** The Director shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this article, and any wastewater discharge permit or order issued hereunder. The owners and occupants of premises where industrial waste is created or discharged into a sanitary sewer shall allow the Director, his inspectors, agents, and representatives ready access at any time necessary to all parts of such premises for purposes of inspection, sampling, characterizing the waste, setting up and using monitoring equipment, inspecting and copying records, and the performance of any of their duties; and the failure or refusal of such owners or occupants to comply with these provisions shall be grounds for the disconnection of water or sewer service or both.

(1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2) The Director shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(3) The Director may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow shall be calibrated yearly to ensure their accuracy. Instruments used to measure quality shall be calibrated as per the manufacturer's direction.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the user.

(5) Unreasonable delays in allowing the Director access to the user's premises shall be a violation of this article.

(6) Determining the character and concentration of industrial waste. The industrial waste discharged or deposited into a sanitary sewer shall be subject to inspection and sampling as often as may be deemed necessary by the Director, but at least annually. In determining the surcharge to be made, samples shall be collected in such manner as to be representative of the character and concentration of the waste under operational conditions. The laboratory methods used in the examination and analysis of the samples shall be in accordance with the techniques and procedures required by Section 32-62(j) of this article. The sampling schedule for determining the character and concentration of industrial waste shall be made by the Director at such times and on such basis as he may reasonably establish. Should the owner or occupant discharging industrial waste into a sanitary sewer desire that a determination of the quality of such industrial waste be made at some time other than that scheduled by the Director, such special determination may be made by the Director at the expense of the owner or occupant discharging the waste.

(b) **Search Warrants.** If the Director has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this article, 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 article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Director may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. No. 36-1992, Pt. 1, 9-24-92)

Sec. 32-64. Confidential Information.

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

(Ord. No. 36-1992, Pt. 1, 9-24-92; Ord. No. 36-2003, pt. 1(Exh. A), 9-25-03)

Sec. 32-65. Publication of Users in Significant Noncompliance.

The Director 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, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of wastewater 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 maximum limits defined in Section 32-58 of this article;
- (b) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent 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 maximum limits, as defined in Section 32-58 of this article, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (c) Any other violation of a pretreatment standard or requirement as defined in Section 32-58 of this article (daily maximum, long-term average, instantaneous maximum limit, or narrative standard) that the Director 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;
- (d) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Director's exercise of its emergency authority to halt or prevent such a discharge;

- (e) 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;
- (f) 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;
- (g) Failure to accurately report noncompliance; or
- (h) Any other violation(s), which may include violations of a BMP, which the Director determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 36-1992, Pt. 1, 9-24-92)

Sec. 32-66. Administrative Enforcement Remedies.

- (a) **Notification of Violation.** When the Director finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may serve upon that user a written notice of violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Director. If the user denies that any violation occurred and/or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention shall be submitted to the Director within ten (10) days of receipt of the notice. Submission of an explanation and/or plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
- (b) **Consent Orders.** The Director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents may include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 32-66(d) and (e) of this article and shall be judicially enforceable.
- (c) **Show Cause Hearing.** The Director may order a user which has violated, or continues to violate, any provision of this article, wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.
- (d) **Compliance Orders.** When the Director finds a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time limit. If the user does not come into compliance within the specified time limit, sewer service may be discontinued unless adequate treatment facilities, devices, or other

related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(e) Cease and Desist Orders. When the Director finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(f) Emergency Suspensions. The Director may immediately suspend a user's discharge, after any reasonable notice to the user that is practical under the circumstances, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the termination proceedings in Section 32-66(g) of this article are initiated against the user.
- (2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director prior to the date of any show cause or termination hearing under Sections 32-66(c) or (g) of this article.

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

(g) Termination of Discharge. In addition to the provisions in Section 32-61(f) of this article, any user who violates the following conditions is subject to discharge termination:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;

(4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or

(5) Violation of the pretreatment standards in Section 32-58 of this article.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 32-66(c) of this article why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. No. 36-1992, Pt. 1, 9-24-92)

Sec. 32-67. Judicial Enforcement Remedies.

(a) Injunctive Relief. When the Director finds that a user has violated, or continues to violate, any provision of this article, wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may petition any court of competent jurisdiction through the City's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this article on activities of the user. The Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(b) Civil Penalties.

(1) A user who has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard to requirement shall be liable to the City for a maximum civil penalty of not more than one thousand dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(2) The City may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City, as well as civil penalties, in any court of competent jurisdiction.

(3) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against the user.

(c) Criminal Prosecution.

(1) A user who has willfully or negligently violated any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than two thousand dollars (\$2,000.00) per violation, per day.

(2) A user who has willfully or negligently introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of not more than two thousand dollars (\$2,000.00) per day of offending discharge. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

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

(d) Remedies Nonexclusive. The remedies provided for in this article are not exclusive. The Director may take any, all, or any combination of these actions against a noncompliant user. The Director is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

(Ord. No. 36-1992, Pt. 1, 9-24-92)

Sec. 32-68. Supplemental Enforcement Action.

(a) Performance Bonds. The Director may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this article, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement unless such user first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance.

(b) Water Supply Severance. Whenever a user has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(c) Public Nuisances. A violation of any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code (Chapter 19) governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

(Ord. No. 36-1992, Pt. 1, 9-24-92)

Sec. 32-69. Affirmative Defenses.

(a) Bypass.

(1) For the purposes of this section,

Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

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

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

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

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The user submitted notices as required under paragraph (3) of this section.

b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraph (4)(a) of this section.

(b) Prohibited Discharge Standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 32-58(a)(1) of this article or the specific prohibitions in Sections 32-58(a)(2)c–g and 32-58(a)(2)i–o of this article if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its TPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(c) Act of God. In an action brought in municipal or state court, if a person can establish that an event that would otherwise be a violation of a pretreatment ordinance or a permit issued under this 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.

(Ord. No. 36-1992, Pt. 1, 9-24-92; Ord. No. 36-2003, pt. 1(Exh. A), 9-25-03)

Sec. 32-70. Other Requirements.

(a) Other Sections Applicable. The sections of the City Code dealing with cross connections, items pertaining to safeguarding the water supply, waste traps, and items safeguarding the sanitary system remain applicable.

(b) Compliance with this article does not exempt or excuse a person from complying with provisions of the Texas Water Quality Act and its amendments, the Clean Water Act and its amendments, or the requirements of any applicable waste discharge permit, order, rule or regulation issued by the TCEQ and/or the EPA.

(c) No section or clause in this article shall exclude any agreement between the Director and any person to discharge wastewater, which complies with the objectives of this article, for treatment by the City. Said agreements shall provide for reimbursement to the City for any expenses incurred in the treatment and disposal of such wastewater.

(Ord. No. 36-1992, Pt. 1, 9-24-92)

Sec. 32-71. 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 submitted by users;

(3) Fees for reviewing and responding to accidental discharge procedures and construction;

(4) Fees for filing appeals; and

(5) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this article and are separate from all other fees, fines, and penalties chargeable by the City.

(b) Abnormal Waste Discharge Requirements. Persons generating abnormal industrial waste may discharge the waste into the sanitary sewer provided:

- (1) The waste will not cause interference; and
- (2) The waste will not endanger or be harmful to the operating personnel of the sewer system; and
- (3) The waste will not cause damage to the collection system; and
- (4) The waste will not impair the treatment processes; and
- (5) The waste will not affect sludge quality and/or require modifications in sludge disposal practices; and
- (6) The waste will not have an effect on receiving water quality; and
- (7) The discharge is in compliance with all limitations and requirements in Section 32-58 of this article; and
- (8) The waste shall be assessed a surcharge for any abnormal levels of BOD or TOC, TSS and FOG or TPH. There shall be one surcharge rate for BOD or TOC and FOG or TPH and a separate rate for TSS; and
- (9) All required permits are in force and approval in writing has been given by the Director for any waivers or special agreements.

(Ord. No. 36-1992, Pt. 1, 9-24-92)

(c) Computation of Surcharges.

- (1) *Computation of the surcharge* for the industrial waste shall be based on the following formulas:

$$S = V (8.34) [X ((\text{BOD or TOC}) - 200) + Y (\text{TSS} - 200) + Z (\text{FOG} - 100) + Z (\text{TPH} - 20)]$$

S = Surcharge in dollars that will appear on the customer's monthly bill

V = Volume of wastewater discharge from user, in millions of gallons. This volume may be calculated from discharge meter or by a percentage of water consumption, as determined by the Director

8.34 = Pounds per gallon of water

X = Unit charge in dollars per pound of BOD or TOC

BOD = BOD strength in milligrams per liter (mg/L)

TOC = Total organic carbon strength in milligrams per liter (mg/L)

200 = Normal BOD/TOC strength in milligrams per liter (mg/L)

Y = Unit charge in dollars per pound for TSS

TSS = Total suspended solids concentration in milligrams per liter (mg/L)

200 = Normal TSS concentration in milligrams per liter (mg/L)

Z = Unit charge in dollars per pound for FOG and TPH

FOG = Fats, oil, and grease concentration in milligrams per liter (mg/l)

TPH = Total petroleum hydrocarbons in mg/L

100 = Normal FOG concentration in mg/l

20 = Normal TPH concentration in mg/L

X, Y, and Z values shall be set by the City Council from time to time.

(2) If the strength or concentration for BOD, TOC, TSS, FOG or TPH is less than the normal strength for that category, there shall be no surcharge for that category, nor shall there be credit given to the total surcharge if the strength or concentration of all three (3) categories is less than the normal. Surcharges payable under this paragraph shall become due monthly after the effective date of the surcharge.

(3) All BOD, TOC, FOG, TPH and TSS values in determining the surcharge shall be re-evaluated and adjusted to reflect any changes in wastewater characteristics as sampling results deem it necessary.

(Ord. No. 36-1992, Pt. 1, 9-24-92)

(d) Governmental Functions. The inspectors, agents, and representatives of the City charged with the enforcement of this article shall be deemed to be performing a governmental function for the benefit of the general public, and neither the City, the Director, nor the individual inspector, agent or representative shall ever be held liable for any loss or damage, whether real or asserted, caused or alleged to have been caused as a result of the performance of such governmental function.

(Ord. No. 36-1992, Pt. 1, 9-24-92)

Secs. 32-72–32-94. Reserved.

PART 3: That any person, firm, or corporation violating the provisions of this Ordinance, shall be subject to escalating enforcement actions and schedule of penalties described in this Article III.

Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 8th day of October, 2020.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 18th day of October, 2020, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 4:30 p.m. on the 22nd day of October, 2020, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 22nd day of October, 2020.

ATTEST:




Deputy City Secretary



Mayor

APPROVED:



City Attorney