

ORDINANCE NO. 25-2002

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WICHITA FALLS, TEXAS, AMENDING CHAPTER 106, ARTICLE VII OF THE CODE OF ORDINANCES, CITY OF WICHITA FALLS, TEXAS, CONCERNING THE REGULATION OF THE DISCHARGE OF INDUSTRIAL WASTEWATER INTO THE SANITARY SEWER SYSTEM AND THE STORM DRAINAGE SYSTEM; DEFINING TERMS; REGULATING DISCHARGES OF CERTAIN SUBSTANCES INTO THE WASTEWATER TREATMENT SYSTEM; PROVIDING LIMITATIONS ON WASTEWATER STRENGTH; PROVIDING FOR SEWAGE SURCHARGES; REQUIRING PERMITS FOR CERTAIN INDUSTRIAL DISCHARGERS; PROVIDING FOR PERMIT FEES; PROVIDING REPORTING REQUIREMENTS; PROVIDING FOR SUSPENSION AND DISCONNECTION OF SERVICE AND REVOCATION OF PERMIT; PROVIDING FOR PENALTIES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR EMERGENCY PASSAGE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING FOR PUBLICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Wichita Falls desires to revise the local discharge limits to its regulations for disposal of industrial wastewater; and

WHEREAS, the City of Wichita Falls also desires to incorporate recommendations from the Texas Natural Resource Conservation Commission (TNRCC) regarding amendments to its regulations for disposal of industrial wastewater; and

WHEREAS, the City has submitted these proposed changes to the TNRCC for its pre-approval as required by law; and,

WHEREAS, the TNRCC has approved the proposed revised local discharge limits and proposed changes to the existence ordinance; and,

WHEREAS, a revision of Chapter 106, Article VII, Division 1 through Division 6, would allow the City Council to retain autonomous control over the regulation of these local discharge limits and industrial pretreatment program.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE

CITY OF WICHITA FALLS, TEXAS, THAT:

SECTION 1. Chapter 106 at Article VII of the Code of Ordinances of the City of Wichita Falls, Texas is hereby amended in its entirety to read as follows:

“ARTICLE VII. REGULATIONS FOR DISPOSAL OF INDUSTRIAL WASTEWATER

DIVISION 1. GENERALLY

Sec. 106-566. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Administrator means the administrator of the United States Environmental Protection Agency and/or the agency for the State of Texas that has authority to administer the program.

Approval Authority means the executive director of the State of Texas agency that has authority to administer the program.

Authorized representative of the user means:

- (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 employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 (in second-quarter 1980 dollars), if 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 subsections (1) through (3) of this definition may designate another authorized representative if the

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

Biochemical oxygen demand or BOD means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius, usually expressed as a concentration (e.g., mg/l).

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

Categorical pretreatment standards means any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with sections 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR chapter 1, subchapter N, parts 405--471.

Chemical Oxygen Demand or COD means the measure of the oxygen-consuming capacity of inorganic and organic matter present in the water or wastewater expressed in milligrams per liter (mg/l) as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

City means the City of Wichita Falls, Texas, or any authorized person acting in its behalf.

Closed-cup flashpoint means a measure of the characteristic of the ignitability of a material using the test methods specified in 40 CFR 261.21.

Composite sample means the sample resulting from the combination of individual samples taken at selected intervals based on an increment of either flow or time, as per the procedure described in 40 CFR, part 403, appendix E(I).

Control Authority means the Laboratory/Water Pollution Coordinator of the ~~city/county~~ Wichita Falls-Wichita County public health district or another official designated by the City Manager or his duly authorized deputy, agent or representative.

Control manhole means a point of access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

Control point means a point of access to a course of discharge before the discharge mixes with other discharges in the public sewer, also known as an inspection port and/or control manhole.

Cooling water means the water discharged from any use such as air conditioning, cooling, or refrigeration or to which the only pollutant added to the water is heat.

Director means the chief administrative officer of a state or interstate water pollution control agency with a National Pollutant Discharge Elimination System permit program approved pursuant to section 402(b) of the Act and an approved state pretreatment program.

Domestic sewage means waterborne wastes normally discharged from the sanitary conveniences of dwellings, including apartments, houses and hotels; office buildings; factories; and institutions, free from stormwater, surface water and industrial wastes.

EPA means the U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for other duly authorized officials, including authorized contractors acting as representatives, of said agency.

Existing source means any source of discharge, the construction or operation of which commenced prior to the publication by the Environmental Protection Agency 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.

Fats means primarily fatty acid esters of the alcohol glycerol, also called acylglycerols, neutral fats, natural fats, or glycerides. They are the major components of depot, or storage, fats in plant and animal cells, especially in the adipose or fat cells of vertebrates. This term may include any synthesized substance of a like nature.

Garbage means animal and vegetable wastes and residue from preparation, cooking and dispensing of food and from the handling, processing, storage and sale of food products and produce.

Grab sample means a sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes, as per the procedure described in 40 CFR part 403, appendix E(II).

Grease means fats, waxes, free fatty acids, calcium and magnesium soaps, mineral oils and certain other non-fatty material commonly found in wastewater.

Grease Trap/Interceptor means a water-tight receptacle designed and constructed to intercept and prevent the passage of grease, greasy and/or fatty liquids, semi-solids, and/or solid wastes generated from commercial operations into the sanitary sewer system to which the receptacle is directly or indirectly connected.

Hazardous substance means any substance designated pursuant to 40 CFR part 302.

Hazardous waste means as provided in 40 CFR 261.3.

Indirect discharge and discharge mean the introduction of pollutants into a publicly owned treatment works from any non-domestic source regulated under section 307(b), (c) or (d) of the Act.

Industrial user and user mean a source of indirect discharge or discharge.

Industrial waste means waste resulting from any process of industry, manufacturing, trade or business; from development of any natural resource; from any mixture of the waste with water or normal wastewater; and wastewater containing pollutants in higher concentrations than normal domestic sewage as defined in this section.

Interceptor means a device designed and installed to separate and retain deleterious, hazardous, or undesirable matter from normal waste and permit normal sewage or liquid wastes to discharge into the disposal system by gravity.

Interference means a discharge which, alone or in conjunction with a discharge from other sources, inhibits or disrupts the publicly owned treatment works, its treatment processes or operations or its sludge processes, use or disposal and, therefore, is a cause of a violation of any requirement of the City's Texas Pollutant Discharge Elimination System permit, including an increase in the magnitude or duration of a violation, 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 any more stringent state or local regulations: section 405 of the Act; the Solid Waste Disposal Act (SWDA), 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.

Lower explosive limit (LEL) of a compound means the minimum concentration of that compound, as a gas or vapor in air, which will explode or burn in the presence of an ignition source.

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

May is permissive or discretionary.

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

Milligrams per liter (mg/l) means the same as parts per million and is a weight-to-volume ratio. The milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

National Pollutant Discharge Elimination System (NPDES) means the National Pollutant Discharge Elimination System permits program as administered by a state or interstate water pollution control agency as approved pursuant to section 402(b) of the Act.

National pretreatment standard or pretreatment standard means any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with sections 307(b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to part 403.5 of the Act.

New source means:

(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;

b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1)b or (1)c of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source has commenced if the owner or operator has:

a. Begun or caused to begin, as part of a continuous on-site construction program, any placement, assembly, or installation of facilities or equipment or significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

No measurable trace means a measurement of a parameter that is less than the detection limit of the appropriate analytic technique approved by the Environmental Protection Agency.

Non-contact cooling water means water used for cooling which does not come into contact with any raw material, intermediate product, waste product or finished product.

Oils means those fats that are liquid at ordinary temperatures.

Other waste means decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals, and all other substances except sewage and industrial wastes.

Owner and occupant mean the person using the lot, parcel of land, building or premises connected to discharging sewage, industrial wastewater of the city, and who pays or is legally responsible for the payment of water rates or charges made against the lot, parcel of land, building or premises, if connected to the city's water distribution system, or who would pay or be legally responsible for such payment if so connected.

Pass through means a discharge which exits the publicly owned treatment works into the waters of the United States in quantities or concentrations which, alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement of the publicly owned treatment works' Texas Pollutant Discharge Elimination System permit, including an increase in the magnitude or duration of a violation.

Person means any individual, consortium, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, joint venture, commercial entity, governmental entity, or any other legal entity or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities including the United States government or any state, municipality, commission, political subdivision of a state or interstate body.

Petroleum oil means high-molecular-weight fractions, produced by thermal cracking or pyrolysis of paraffin hydrocarbons, that are viscous and oily, typically used as lubricants in machinery. This term may include any synthesized substance of a like nature.

pH means a measure of the acidity or alkalinity of a material, liquid or solid, expressed in standard units, specifically the negative logarithm of the hydrogen ion concentration represented on a scale of 0 to 14 with 7 being a neutral state, 0 most acidic and 14 most alkaline.

Point source means any discernable, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include agricultural stormwater discharges and return flows from irrigated agriculture.

Pollutant means dredged spoil; solid waste; incinerator residue; filter backwash; sewage; garbage; sewage sludge; munitions; medical wastes; chemical wastes; biological materials; radioactive materials except as regulated

under the Atomic Energy Act of 1954 as amended (42 USC 2011 et seq.); heat; wrecked or discarded equipment; rock; sand; cellar dirt; municipal, agricultural and industrial wastes; and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

Pollution Prevention (P2) means the use of materials, processes, or practices that reduce or eliminate the creation of pollutants or wastes at the source. It includes, but is not limited to, practices that reduce the use of hazardous and nonhazardous materials, energy, water, or other resources as well as those that protect natural resources through conservation or more efficient use.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the publicly owned treatment works. This reduction or alteration can be obtained by physical, chemical, or biological processes, except as prohibited by 40 CFR 403.6(d); by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

Pretreatment standards and standards mean prohibited discharge standards, categorical pretreatment standards, and local limits, whether Federal, State or local, and where more than one standard for a particular pollutant exists, the most stringent.

Prohibited discharge standards and prohibited discharges mean absolute prohibitions against the discharge of certain substances; these prohibitions appear in sections 106-816 and 106-817 of this article.

Publicly owned treatment works (POTW) and wastewater system mean a treatment works as defined by section 212 of the Act, which is owned by a State or municipality, as defined by section 504(4) of the Act. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a publicly owned treatment works. The term also includes the municipality as defined in section 504(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

Removal means a reduction in the amount of a pollutant or alteration of the nature of a pollutant during pretreatment or treatment. The reduction or alteration may be obtained by physical, chemical or biological means and may be the result of specifically designed capabilities or may be incidental to the operation of the pretreatment or treatment system. Removal does not mean dilution of a pollutant.

Reportable slug load means either of the following:

(1) Any release into the publicly owned treatment works over a 24-hour period which meets any of the following criteria:

a. A reportable quantity of a hazardous material, as defined under section 311 of the CWA, section 102(b) of the CERCLA, and 40 CFR 302.4.

b. Ten pounds or more of heavy metals, including arsenic, cadmium, chromium, copper, lead, mercury, nickel, silver, and zinc; or cyanide in solution.

c. One gallon or more of any toxic substance listed in this article.

d. All flammable liquids in quantities of more than one gallon.

e. Any other liquid material determined to have adverse effects on the publicly owned treatment works, including but not limited to alkalies or alkaline substances, oils, foam generating wastes, highly colored wastes, pesticides, organics, vegetable matter, and solvents not listed previously.

(2) Any discharge of water or wastewater with a concentration of any given constituent or a quantity of flow for any period longer than 15 minutes more than five times the average 24-hour concentration or flow of normal operations of the user shall also be considered a slug load.

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

Sewage means domestic or industrial waste carried in the drains and pipes of the sanitary sewer.

Significant industrial user means:

(1) Any user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; or

(2) A user that:

a. Discharges an average of 25,000 gpd or more of process wastewater to the publicly owned treatment works, excluding sanitary, non-contact cooling, and boiler blowdown wastewater;

b. Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the publicly owned treatment works treatment plant; or

c. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the publicly owned treatment works' operation or for violating any pretreatment standard or requirement, in accordance with 40 CFR 403.8(f)(6).

(3) Upon a finding that a user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the publicly owned treatment works' operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Significant Noncompliance means that an industrial user is in violation of one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined as those in which sixty-six percent or more of all measurements taken during a six month period exceed (by any magnitude) the daily maximum limit for the same pollutant parameter;

(2) Technical Review Criteria (TRC) violations, defined as those violations in which thirty-three percent or more of all measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils, and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such discharge;

(5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide, within 30 days after the due date, required reports such as the baseline monitoring report, 90-day compliance report, periodic report, and reports on compliance and compliance schedules;

(7) Failure to accurately report noncompliance, and;

(8) Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

Significant violator means any user committing a violation meeting one or more of the criteria of 40 CFR 403.8 (f)(2)(vii).

Slug, slug discharge and slug load mean any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge. Certain slug loads are reportable slug loads.

Standard Industrial Classification code (SIC) means the uniform method for collecting and presenting business data devised by the U.S. Office of Management and Budget. Each business is given an SIC code based upon its primary activity, which is determined by its predominant business or service. For the purposes of this article, the SIC code of a business is the first four digits of the SIC number of that business as found in the most current edition of the Standard Industrial Classification Manual.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snowmelt. This term also includes other types of surface runoff and drainage, such as but not limited to lawn watering; vehicle washing; pavement and sidewalk wash-off; and drainage from swimming pools, water beds, and hot water heaters and structure cleaning.

Suspended solids and total suspended solids mean the total suspended matter that floats on the surface of or is suspended in water, wastewater, or other liquids, which is removable by laboratory filtering using the method for determining "non-filterable residue" in 40 CFR 136.3.

Total toxic organics (TTO) means the summation of all quantifiable values greater than 0.01 milligrams per liter for all toxic organics listed under 40 CFR 413.02(i) and 40 CFR 433.11(e).

Toxic pollutant means any pollutant designated as toxic pursuant to section 307(a)(1) of the Act and listed in 40 CFR 401.15.

TPDES means Texas Pollutant Discharge Elimination System permits program as administered by a State of Texas water pollution control agency as approved pursuant to Section 402(b) of the Act.

Upset means an exceptional incident in which a discharge unintentionally and temporarily is in a state of noncompliance with the standards set forth in this article and other applicable, Federal, State, and local laws due to factors beyond the reasonable control of the discharger, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

Wastewater means 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 publicly owned treatment works. Stormwater, surface water, and groundwater infiltration may be included in the wastewater that enters a publicly owned treatment works.

Wastewater discharge permit means a mechanism used to control the discharge of wastewater to the POTW from an industrial user in order to: (1) insure compliance with applicable pretreatment standards and requirements; (2) regulate continuing use of the sanitary sewer system; and (3) place conditions on the discharge.

Wastewater treatment plant and treatment plant mean that portion of the publicly owned treatment works which is designed to provide treatment of municipal sewage and industrial waste.

Sec. 106-567. Abbreviations.

The following abbreviations, when used in this article, shall have the designated meanings:

TABLE INSET:

BOD	Biochemical oxygen demand
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
CWA	Clean Water Act
EPA	U.S. Environmental Protection Agency
FOG	Fats, oils, and grease
gpd	Gallons per day
mg/l	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
O&M	Operation and maintenance
P2	Pollution Prevention
pH	Potential Hydrogen Ion Concentration
POTW	Publicly owned treatment works
RCRA	Resource Conservation and Recovery Act
SIC	Standard industrial classification
SNC	Significant Noncompliance
SWDA	Solid Waste Disposal Act
TPDES	Texas Pollutant Discharge Elimination System
TRC	Technical review criteria

TSS	Total suspended solids
USC	United States Code

Sec. 106-568. Purpose and policy.

(a) This article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the city and enables the city to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 (33 USC 1251 et seq.) and the general pretreatment regulations (40 CFR part 403). The objectives of this article are to:

(1) Prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) Prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, or otherwise be incompatible with the system;

(3) Improve the opportunity to recycle and reclaim wastewaters and sludges from the system;

(4) Provide for equitable distribution of the cost of the operation, maintenance and improvement of the municipal wastewater system;

(5) Protect the health and safety of wastewater treatment and wastewater collection personnel as well as the general public;

(6) Enable the municipal wastewater system to comply with Texas Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws; and

(7) To reduce the operational and maintenance costs of maintaining the sewer system by preventing the accumulation of grease, oil, and residue within the sewage system lines.

(b) This article provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, requires user reporting, assumes that an existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this article.

(c) This article shall apply to the City and to persons outside the City who are, by contract or agreement with the City, users of the City's publicly owned treatment works (POTW).

Sec. 106-569. Confidential information.

Information and data on a user obtained from reports, surveys, wastewater discharge permits and monitoring programs and from the Control Authority's inspection and sampling activities and any other information submitted to the Control Authority pursuant to this article shall be available to the public without restriction, at least to the extent provided by 40 CFR 2.302, unless the user specifically requests and is able to demonstrate to the satisfaction of the Control Authority that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable Federal, State, or local law. Any such request must be asserted at the time of submission in the manner prescribed on the application form or instructions or, for other submissions, 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 and shall be treated in accordance with the procedures in 40 CFR part 2 (Public Information), but shall be made available immediately upon request to governmental agencies for uses related to the Texas Pollutant Discharge Elimination System program or pretreatment program, and in enforcement proceedings involving the person providing the report, unless so prohibited by 40 CFR part 2 (Public Information). 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.

Secs. 106-570--106-595. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT*

Subdivision I. In General

Sec. 106-596. Administration.

Except as otherwise provided in this article, the Laboratory/Water Pollution Coordinator of the city/county Wichita Falls-Wichita County Public Health District under the authority and supervision of the City Manager shall administer, implement, and enforce this article. Any powers granted to or duties imposed upon the Laboratory/Water Pollution Coordinator of the Wichita Falls-Wichita County Public Health District may be delegated by the Laboratory/Water Pollution Coordinator of the Wichita Falls-Wichita County Public Health District to other city personnel.

Sec. 106-597. Public participation in enforcement.

The Control Authority shall comply with the public participation requirements of 40 CFR part 25 in the enforcement of national pretreatment standards. As a provision of such, the Control Authority shall make at least annual public notification, in the largest daily newspaper published in the city in which the publicly owned treatment works is located, of users which, at any time in the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. For the purpose of this section, a user

is in significant noncompliance if its violation meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all the measurements taken from a particular control point during a six-month period exceed, by any magnitude, the daily maximum limit or the average limit for the same pollutant parameter;

(2) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all the measurements taken from a particular control point during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, FOG, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the Control Authority determines or believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of publicly owned treatment works, Control Authority, or other city personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the either the publicly owned treatment work's or the Control Authority's exercise of its emergency authority under but not limited to 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;

(5) Failure to meet, within 90 days after the schedule date, a compliance schedule date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

Subdivision II. Supplemental Enforcement Action.

Sec. 106-598. Water supply severance.

Whenever a user has violated or continues to violate any section of this article or a provision of a wastewater discharge permit or order issued under this article 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.

Sec. 106-599. Public nuisances.

A violation of any section of this article or a provision of a wastewater discharge permit or order issued under this article or any other pretreatment standard or requirement is declared a public nuisance and shall be corrected or abated as directed by the Control Authority. Any person creating a public nuisance shall be subject to the sections of this Code governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying the nuisance.

Secs. 106-600--106-625. Reserved.

Subdivision III. Administrative Enforcement

Sec. 106-626. Authority of Control Authority.

The Control Authority may issue orders without notice or opportunity for prior hearing, requiring compliance with standards developed under the authority of the Act under 40 CFR 403.8(f)(1)(iii).

Sec. 106-627. Notification of violation.

When the Control Authority finds that a user has violated or continues to violate any section of this article, a wastewater discharge permit or order issued under this article or any other pretreatment standard or requirement, the Control Authority may serve upon that user a written notice of violation. Within 14 days of the receipt date 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 Control Authority. Submission of this in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this subdivision shall limit the authority of the Control Authority to take any action, including emergency action, without first issuing a notice of violation.

Sec. 106-628. Consent orders.

The Control Authority is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance with this article. Such documents will include the specific action to be taken by the user to correct the noncompliance within a time period also specified by the document. Such document shall have the same force and effect as the administrative orders issued pursuant to sections 106-630 and 106-631 and shall be judicially enforceable.

Sec. 106-629. Show cause hearing.

The Control Authority may order a user which has violated or continues to violate any section of this article, a wastewater discharge permit or order issued under this article or any other pretreatment standard or requirement to appear before the Control Authority 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 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. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued. Since the user will have already been in SNC to necessitate the Show Cause Hearing, any action taken as a result of the hearing shall be in addition to any penalties levied for the SNC.

Sec. 106-630. Compliance orders.

When the Control Authority finds that a user has violated or continues to violate any section of this article, a wastewater discharge permit or order issued under this article or any other pretreatment standard or requirement, the Control Authority may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer and/or water 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 the installation of pretreatment technology, additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against or a prerequisite for taking any other action against the user.

Sec. 106-631. Cease and desist orders.

(a) When the Control Authority finds that a user has violated or continues to violate any section of this article, a wastewater discharge permit or order issued under this article or any other pretreatment standard or requirement or that the user's past violations are likely to recur, the Control Authority 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 preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

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

Sec. 106-632. Administrative fines.

(a) When the Control Authority finds that a user has violated or continues to violate any section of this article, a wastewater discharge permit or order issued under this article or any other pretreatment standard or requirement,

the Control Authority may fine such a user in an amount not to exceed \$2,000.00. Such fine shall be assessed on a per-violation, per-day basis. For monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. Such assessments may be added to the user's next scheduled sewer service charge, and the Control Authority shall have such other collection remedies as he has to collect other service charges.

(b) Unpaid charges, fines, and penalties shall, after 14 calendar days, be assessed an additional penalty of ten percent of the unpaid balance, and interest shall accrue thereafter at a rate of one percent per month for every month unpaid up to a maximum of ten percent per month.

(c) A user desiring to dispute such fine must file a written request for the Control Authority to reconsider the fine along with full payment of the fine amount within ten days of being notified of the fine. When the Control Authority believes a request has merit, the Control Authority may convene a hearing on the matter within 15 days of receiving a request from the user. If the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Control Authority may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(d) Issuance of an administrative fine shall not be a bar against or a prerequisite for taking any other action against the user.

Sec. 106-633. Emergency suspensions.

(a) The Control Authority may immediately suspend a user's discharge and/or water service, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Control Authority may also immediately suspend a user's discharge and/or water service, after notice and opportunity to respond, that threatens to interfere with operation of the publicly owned treatment works or which presents or may present an endangerment to the environment.

(b) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. If a user fails to immediately comply voluntarily with the suspension order, the Control Authority may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the publicly owned treatment works, its receiving stream, or endangerment to any individuals. The Control Authority may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Control Authority that the period of endangerment has passed, unless the termination proceedings in section 106-634 are initiated against the user.

(c) 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 Control Authority prior to the date of any show cause or termination hearing under section 106-629 or 106-634.

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

Sec. 106-634. Termination of discharge.

(a) In addition to section 106-763, 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, sampling or industry categorization verification;
- (5) Violation of the pretreatment standards in subdivision II of division 4 of this article; or
- (6) Violation of any applicable State or Federal law; or
- (7) Tampering with sampling equipment, sampling lines, or otherwise interfering with sampling or samples collected for the purpose of influencing or manipulating sample test results.

(b) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 106-629 why the proposed action should not be taken. Exercise of this option by the Control Authority shall not be a bar to or a prerequisite for taking any other action against the user.

Sec. 106-635. Liquidated damages.

(a) Each wastewater discharge permit issued to an industrial user, and as a condition of issuing such permit, shall contain the following:

"In the event that the Control Authority determines that any user is in violation of any provisions of Chapter 106, Article VII of the Code of Ordinances of the City of Wichita Falls, Texas, its wastewater discharge permit, or orders issued hereunder, or any other pretreatment standard or requirement, the Control Authority shall notify the user of such violation and require the user to cure the violation within the time specified in the notice. The user shall respond in writing to the notice of violation within ten business days from receipt of such notice, setting forth the steps taken to correct the violation. The Control Authority may extend the time for such response upon a showing of just cause by the user. If the Control Authority determines that the user is continuing the violation, the Control Authority may assess liquidated damages at a minimum of \$1,000.00 per violation, per day."

(b) The user retains the right to seek review by the City Council of any damages assessed under this section and the wastewater discharge permit.

(c) Assessments may be added to the user's next scheduled sewer service charge, and the Control Authority shall have such other collection remedies as may be available for other service charges and fees.

(d) Issuance of an assessment under this section shall not be a prerequisite for taking any other action against the user.

Secs. 106-636--106-660. Reserved.

Subdivision IV. Judicial Enforcement

Sec. 106-661. Authority.

If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to this article or any order or permit issued under this article, the Control Authority, through the city attorney, may commence an action for appropriate legal and/or equitable relief in the municipal court for the city.

Sec. 106-662. Injunctive relief.

When the Control Authority finds that a user has violated or continues to violate any section of this article, a wastewater discharge permit, or order issued under this article or any other pretreatment standard or requirement, the Control Authority may petition the courts through the city attorney for the issuance of a temporary, preliminary, and/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 Control Authority 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 of taking any other action against a user. The Control Authority shall have such remedies to collect these fees as it has to collect other sewer service charges.

Sec. 106-663. Civil penalties.

(a) A user who has violated or continues to violate any section of this article, a wastewater discharge permit, or order issued under this article or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of \$2,000.00 per violation per day plus actual damages incurred by the publicly owned treatment works. For a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The Control Authority 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.

(c) 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.

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

Sec. 106-664. Criminal prosecution.

(a) For the purpose of this article, the city shall enact all criminal authorities authorized under State law.

(b) Any user that willfully or negligently violates any section of this article, any orders or wastewater discharge permits issued under this article or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than two thousand (\$2,000) dollars per violation, per day as provided in section 106-632.

(c) Any user that knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed or required to be maintained pursuant to this article, the wastewater discharge permit or an order or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine per violation, per day as provided in section 106-632.

(d) The purpose of criminal prosecution is to punish noncompliance through court proceedings and to deter future noncompliance. The city will enforce compliance with all ordinances in municipal court and will seek the assistance of the district attorney and/or U.S. Attorney's office to enforce State and Federal laws.

Sec. 106-665. Remedies nonexclusive.

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

Secs. 106-666--106-690. Reserved.

Subdivision V. Affirmative Defenses to Discharge Violations

Sec. 106-691. Upset.

(a) For the purposes of this section, the term "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the

reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

(b) An upset that would otherwise be a violation that is caused solely by an Act of God, war, strike, riot, or other catastrophe is not a violation according to the Texas Water Code, Section 7.251. (c) In an action brought in municipal or State court, if a person can establish that an event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of the ordinance or permit.

(d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) A user shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

Sec. 106-692. Prohibited discharge standards.

A user shall have an affirmative defense to an enforcement action brought against him for noncompliance with the general prohibitions in section 106-816 or the specific prohibitions in section 106-817 if the user can prove that he did not know or have reason to know that the 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 Texas Pollutant Discharge Elimination System permit and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.

Sec. 106-693. Bypass.

(a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bypass means the intentional diversion of waste streams 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. The term "severe property damage" does not mean economic loss caused by delays in production.

(b) 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 ensure efficient operation. These bypasses are not subject to subsections (c) and (d) of this section.

(c) Notice of bypass shall be given in accordance with the following:

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

(2) A user shall submit oral notice to the Control Authority of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five 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; if the bypass has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(d) Enforcement action curtailments shall be as follows:

(1) Bypass is prohibited, and the Control Authority may take an enforcement action against a user for a bypass, unless:

- a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

c. The user submitted notices as required under subsection (c) of this section.

(2) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in subsection (d)(1) of this section.

Secs. 106-694--106-720. Reserved.

Subdivision VI. Compliance Monitoring

Sec. 106-721. Inspection and sampling.

In accordance with 40 CFR 403.8(f)(2)(v) the Control Authority shall randomly inspect and sample each significant industrial user once a year in order to verify self-monitoring reports and other user-provided information. This section shall not preclude the Control Authority from sampling and/or inspecting significant industrial users more frequently or from sampling or inspecting any non-significant industrial user or any other user.

Sec. 106-722. Right of entry.

(a) The Control Authority and/or the Approval Authority shall have the right to enter the premises of any user, whether or not the user possesses a wastewater discharge permit, to determine whether the user is complying with all the requirements of this article and any wastewater discharge permit or order issued under this article. A user shall allow the Control Authority and/or the Approval Authority ready access to all parts of the premises for the purpose of sampling, records examination and copying, and the performance of any additional duties, including determination and verification of proper classification of the user as a categorical, non-categorical, significant, or non-significant industrial user.

(b) 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 Control Authority and/or the Approval Authority will be permitted to enter without delay for the purposes of performing specific responsibilities.

(c) The Control Authority 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.

(d) The Control Authority may require the user to install sampling equipment, monitoring equipment, metering equipment, and/or control manholes as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at appropriate intervals to ensure their accuracy.

(e) Any temporary or permanent obstruction, whether object, condition, or otherwise, to safe and easy access to the facility or the facility's control point

shall be promptly removed by the user at the written or verbal request of the Control Authority and shall not be replaced. The costs of clearing such access shall be borne by the user.

(f) Unreasonable delays in allowing the Control Authority and/or the Approval Authority access to the user's premises shall be a violation of this article.

(g) The right of access of the Control Authority and/or the Approval Authority shall extend to but not be limited to any premises where there is a discharge source or pretreatment system located or where records are required to be kept by this article or under 40 CFR 403. To make a comprehensive determination of user's compliance status, the Control Authority and/or the Approval Authority shall have access to all areas of the facility, including but not limited to areas where chemicals and raw materials are stored. This right shall be considered at least as extensive as the authority provided under section 308 of the Act.

(h) During the course of any visit, the Control Authority and/or the Approval Authority may document any part or process of the facility by written document, still photography, video, audio, or any other recording method deemed appropriate by the Control Authority and/or the Approval Authority. The user may use the procedures in Section 106.569 of this article to request that portions of the documentation be considered confidential information.

(i) The user shall not deny access by the Control Authority and/or the Approval Authority to any area of the facility for any reason, including but not limited to proprietary processes, security clearance, safety concern, or personal privacy. Any necessary arrangements for access to all areas shall have been made by the user beforehand so that upon presentation of suitable identification, the Control Authority and/or the Approval Authority shall be permitted to enter any area of the facility without reasonable delay for the purposes of performing specific responsibilities. The failure of the user to make any such necessary arrangements shall not constitute a valid reason for the user to deny entrance by the Control Authority and/or the Approval Authority to any area of the facility.

Sec. 106-723. Search warrants.

If the Control Authority and/or the Approval Authority 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 under this article or to protect the overall public health, safety and welfare of the community, the Control Authority may seek issuance of a search warrant.

Secs. 106-724--106-750. Reserved.

DIVISION 3. WASTEWATER DISCHARGE PERMIT

Sec. 106-751. Denial or conditions of new or increased contributions.

The Control Authority may deny or condition new or increased contributions of pollutants or changes in the nature of pollutants to the publicly owned treatment works by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the publicly owned treatment works to violate its Texas Pollutant Discharge Elimination System permit.

Sec. 106-752. Wastewater analysis.

When requested by the Control Authority, a user must submit information on the nature and characteristics of its wastewater within a reasonable time specified by the Control Authority. The Control Authority is authorized to prepare a form for this purpose and may periodically require users to update this information.

Sec. 106-753. Requirements.

(a) No significant industrial user shall discharge wastewater into the publicly owned treatment works without first obtaining a wastewater discharge permit from the Control Authority, except that a significant industrial user that has filed a timely application pursuant to section 106-754 or 106-755 may continue to discharge for the time period specified therein.

(b) The Control Authority may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this article.

(c) 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 106-751--106-759 and sections 106-598 and 106-599 and subdivision IV and V of division 2 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.

Sec. 106-754. Existing connections.

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the publicly owned treatment works prior to the effective date of the ordinance from which this section derives and who wishes to continue such discharges in the future shall, within 30 days after such date, apply to the Control Authority for a wastewater discharge permit in accordance with section 106-757 and shall not cause or allow discharges to the publicly owned treatment works to continue after 60 days of the effective date of the ordinance from which this section derives except in accordance with a wastewater discharge permit issued by the Control Authority. All users currently under a permit may continue to discharge wastewater for the duration of the permit with the provision that all prohibitions in this article shall be considered to be in force at the effective date of the ordinance from which this article derives.

Sec. 106-755. New connections.

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the publicly owned treatment works must obtain such a permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with section 106-757, must be filed at least 60 days prior to the date upon which any discharge will begin or recommence.

Sec. 106-756. Extrajurisdictional industrial users.

This article shall apply to all persons outside the city who are, by contract or agreement with the city, users of the city's publicly owned treatment works, and thus such users may be required to obtain a wastewater discharge permit in accordance with all applicable sections of this division.

Sec. 106-757. Application contents.

(a) All users required to obtain a wastewater discharge permit must submit a permit application. The Control Authority may require all users to submit as part of an application the following information:

- (1) All information required by subsection 106-881(b);
- (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 publicly owned treatment works;
- (3) Number and type of employees, hours of operation, and proposed or actual hours of operation;
- (4) Each product produced by type, amount, process 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 Control Authority to evaluate the wastewater discharge permit application.

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

Sec. 106-758. Application signatories and certification.

All wastewater discharge permit applications and user reports shall be signed by an authorized representative of the user and shall 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 or imprisonment for knowing violations."

Sec. 106-759. Decisions.

The Control Authority will evaluate the data furnished in the application for a wastewater discharge permit by the user and may require additional information. Within 30 days of receipt of a complete wastewater discharge permit application, the Control Authority will determine whether or not to issue a wastewater discharge permit. The Control Authority may deny any application for a wastewater discharge permit.

Sec. 106-760. Duration.

A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit, with the exception that at the discretion of the Control Authority a wastewater discharge permit may be issued for a period of less five years. Each wastewater discharge permit will indicate a specific date upon which it will expire.

Sec. 106-761. Contents.

(a) A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Control Authority to:

- (1) Prevent pass through or interference;
- (2) Protect the quality of the water body receiving the treatment plant's effluent;
- (3) Protect worker health and safety;
- (4) Facilitate sludge management and disposal; and
- (5) Protect against damage to the publicly owned treatment works.

(b) Wastewater discharge permits must contain the following:

(1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;

(2) A statement that the wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the prior notification and approval of the Control Authority in accordance with section 106-764 and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit, all with the provision that the Control Authority may

require a new wastewater discharge permit application be made in lieu of a permit being reassigned or transferred or sold;

(3) Effluent limits based on applicable general pretreatment standards in 40 CFR part 403, categorical pretreatment standards, local limits, and State and local law;

(4) Self-monitoring, sampling, reporting, notification and record keeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in 40 CFR part 403, categorical pretreatment standards, local limits, and State and local law; and

(5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable Federal deadlines.

(c) Wastewater discharge permits may contain but not be limited to the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and equalization.

(2) 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.

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.

(4) Development and implementation of waste minimization plans or Pollution Prevention (P2) Programs to reduce the amount of pollutants discharged to the publicly owned treatment works.

(5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the publicly owned treatment works.

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment.

(7) 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.

(8) Other conditions as deemed appropriate by the Control Authority to ensure compliance with this article and State and Federal laws, rules, and regulations.

Sec. 106-762. Appeals.

(a) The Control Authority shall provide public notice of issuance of a new wastewater discharge permit. Any person, including the user, may petition the Control Authority to reconsider the terms of a wastewater discharge permit within 90 days of notice of its issuance.

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

(c) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(d) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(e) If the Control Authority fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

Sec. 106-763. Modification.

The Control Authority may modify a wastewater discharge permit for good cause, including but not limited to the following reasons:

(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 publicly owned treatment works 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 publicly owned treatment works, city personnel, or the receiving waters;

(5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13; or

(8) To correct typographical or other errors in the wastewater discharge permit.

Sec. 106-764. Transferability.

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the Control Authority. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The Control Authority may require a new wastewater discharge permit application be made in lieu of a permit transfer.

Sec. 106-765. Revocation.

(a) The Control Authority may revoke a wastewater discharge permit for good cause, including but not limited to the following reasons:

- (1) Failure to notify the Control Authority of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the Control Authority of changed conditions pursuant to section 106-885;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the Control Authority and/or Approval Authority 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 or surcharges;
- (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.

(b) 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.

Sec. 106-766. 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 106-757, a minimum of 15 days prior to the expiration of the user's existing wastewater discharge permit.

Sec. 106-767. Regulation of waste received from other jurisdictions.

(a) If another municipality or user located within another municipality contributes wastewater to the publicly owned treatment works, the Control Authority shall enter into an intermunicipal agreement with the contributing municipality.

(b) Prior to entering into an agreement required by subsection (a) of this section, the contributing municipality must provide the following information to the Control Authority:

(1) A description of the quality and volume of wastewater discharged to the publicly owned treatment works by the contributing municipality;

(2) An inventory of all users located within the contributing municipality that are discharging to the publicly owned treatment works; and

(3) Such other information as the Control Authority may deem necessary.

(c) An intermunicipal agreement, as required by subsection (a) of this section, shall contain the following conditions:

(1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this article and local limits which are at least as stringent as those set out in section 106-820. 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;

(2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

(3) 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 Control Authority; and which of these activities will be conducted jointly by the contributing municipality and the Control Authority;

(4) A requirement for the contributing municipality to provide the Control Authority with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the publicly owned treatment works;

(6) Requirements for monitoring the contributing municipality's discharge;

(7) A provision ensuring the Control Authority and/or the Approval Authority access to the facilities of users located within the contributing

municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Control Authority; and

(8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

Secs. 106-768--106-790. Reserved.

DIVISION 4. SEWER USE REGULATIONS

Subdivision I. In General

Secs. 106-791--106-815. Reserved.

Subdivision II. Prohibited Discharges

Sec. 106-816. General prohibitions.

No user shall introduce or cause to be introduced into the publicly owned treatment works any pollutant or wastewater which causes pass through or interference. These general prohibitions and the specific prohibitions in section 106-817 apply to all users of the publicly owned treatment works, whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

Sec. 106-817. Specific prohibitions.

(a) No user shall introduce or cause to be introduced into the publicly owned treatment works the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the publicly owned treatment works, including but not limited to waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.

(2) Wastewater having a pH less than 5 or more than 12, or otherwise causing corrosive structural damage to the publicly owned treatment works or equipment.

(3) Solid or viscous substances in amount which will cause obstruction of the flow in the publicly owned treatment works resulting in interference, but in no case solids greater than two inches or five centimeters in any dimension.

(4) 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 publicly owned treatment works.

(5) Heat in amounts which will inhibit biological activity in the treatment plant resulting in interference, but in no case heat in such quantities which causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the publicly owned treatment works in a quantity that may cause acute worker health and safety problems.

(8) Trucked or hauled pollutants, except at discharge points designated by the city in accordance with section 106-854.

(9) Fats, oils and grease in concentrations greater than 500 mg/l, or which violate any other section of this subdivision.

(b) 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 publicly owned treatment works.

Sec. 106-818. National categorical pretreatment standards.

(a) The categorical pretreatment standards found at 40 CFR chapter I, subchapter N, parts 405--471 are incorporated. All existing or new users shall also comply with all applicable pretreatment standards and requirements, including those set forth in 40 CFR 403.6.

(b) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Control Authority may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

(c) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Control Authority shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).

(d) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by the Environmental Protection Agency when developing the categorical pretreatment standard.

(e) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

Sec. 106-819. State pretreatment standards.

State requirements and limitations on discharges to the publicly owned treatment works shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than Federal requirements and limitations or those in this article or any other applicable ordinance.

Sec. 106-820. Local limits.

(a) The city has two publicly owned treatment works: POTW #1, known as the Northside Treatment Plant, located at 5645 Burkburnett Road, Wichita Falls, Texas, and POTW #2, known as the River Road Treatment Plant, located at 1005 River Road, Wichita Falls, Texas. As these two treatment works have

different capacities, flow characteristics, and receiving waters, the city has developed maximum allowable discharge limits for industrial users for each treatment works.

(b) Each industrial discharger will be required to adhere to those limits established at the treatment works receiving its wastewater discharge. The following local limits are established to protect against pass through and interference and to protect sludge quality. Except as provided, no person shall discharge wastewater in excess of the following maximum allowable discharge limits:

TABLE INSET:

Pollutant	River Road Treatment Plant mg/l	Northside Treatment Plant mg/l
Antimony	1.42	0.34
Arsenic	0.89	0.21
Beryllium	0.07	0.47
Cadmium	0.39	0.08
Chromium	6.82	3.48
Copper	6.75	2.30
Cyanide	0.38	0.06
Lead	2.26	0.58
Mercury	0.0083	0.0073
Nickel	4.64	0.34
Phenols	3.94	0.87
Selenium	0.17	0.02
Silver	0.66	0.66
Zinc	42.54	1.72

(c) Discharge of wastewater containing BOD and/or TSS in concentrations greater than 300 mg/l and fats, oils and grease in concentrations greater than 100 mg/l will be subject to a sewer surcharge at a rate set by the City Council to defray the additional costs of treatment for excessive BOD, TSS and fats, oils and grease at the publicly owned treatment works.

(d) The surcharge will be an additional charge to the current monthly industrial sewer charge. The surcharge will not be retroactive, but will continue until such time subsequent tests determine that the surcharge requires adjustment.

(e) The limits in this section apply at the point where the wastewater is discharged to the publicly owned treatment works. All concentrations for metals, cyanide, and phenols are for "total." The Control Authority may impose mass limitations in addition to or in place of the concentration-based limitations in this section.

(f) The Control Authority may impose additional and/or alternative limits by permit on specific individual industrial users. These limits shall be technically based on the allowable loading of the specified pollutant at the appropriate treatment plant. In no case shall these additional and/or alternative limits be less stringent than the above limits, or any applicable Federal or State statute.

Sec. 106-821. 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 publicly owned treatment works.

Sec. 106-822. Dilution.

No user shall ever increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Control Authority 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.

Secs. 106-823--106-850. Reserved.

Subdivision III. Pretreatment Requirements

Sec. 106-851. Pretreatment facilities.

Users shall provide necessary wastewater treatment to comply with this article and shall achieve compliance with all applicable categorical pretreatment standards, local limits, and the prohibitions established by this article in subdivision III of this division within the time limitations specified by the Environmental Protection Agency, the State, or the Control Authority, 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 Control Authority for review and shall be acceptable to the Control Authority before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under this article.

Sec. 106-852. Additional pretreatment measures.

(a) Whenever deemed necessary, the Control Authority 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 waste streams from industrial waste streams, and meet such other conditions as may be necessary to protect the publicly owned treatment works and determine the user's compliance with the requirements of this article.

(b) The Control Authority may require any person discharging into the publicly owned treatment works to install and maintain, on his property and at his expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization. All records, charts, recorded charts or strips, and logs of such controls shall be maintained and provided upon request of the Control Authority.

(c) Grease, oil, and sand interceptors or traps shall be provided when, in the opinion of the Control Authority, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil or sand; however, such interceptors or traps shall not be required for residential users. All interception units shall be of a type and capacity approved by the Control Authority and shall be so located to be easily accessible for cleaning and inspection. Such interceptors or traps shall be inspected, cleaned, and repaired regularly, as needed, by the user at his expense. A record of maintenance, repairs, and a log of pumping and waste hauling of contents shall be maintained and provided to the Control Authority upon request.

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

(e) The Control Authority may require any user to install or have installed at the user's expense a control manhole, of a size and construction approvable by the Control Authority. Additionally, the Control Authority may require the user to construct or have constructed at the user's expense any structures, appurtenances, fences, embankments, rail guards, posts, security system, or any other device with eye bolts, locks, lights, signs, or any other device to ensure the security and safety of Control Authority personnel and sampling equipment.

Sec. 106-853. Accidental discharge and slug control plans.

At least once every two years, the Control Authority shall evaluate whether each significant industrial user needs a plan to control slug discharges. The Control Authority may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Control Authority may develop such a plan for any user. An accidental discharge plan shall address, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the Control Authority, other regulatory agencies such as the EPA and the Approval Authority, and the appropriate wastewater treatment plant of any accidental or slug discharge, as required by section 106-886; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include but are not limited to inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants including solvents, and/or measures and equipment for emergency response. The location of floor drains, if present, and any other possible sources of introduction into the waste stream or sanitary sewage system will also be identified.

Sec. 106-854. Hauled wastewater.

The following requirements are in addition to section 106-311 and subdivision III of division 2 of this article:

(1) Septic tank waste shall only be introduced into the publicly owned treatment works at locations designated by the publicly owned treatment works and at such times as are established by the publicly owned treatment works. Such waste shall not violate subdivision III of this division or any other requirements established by the city. The Control Authority may require septic tank waste haulers to obtain wastewater discharge permits.

(2) The Control Authority may require haulers of industrial wastewater to obtain wastewater discharge permits. The Control Authority may require generators of hauled industrial wastewater to obtain wastewater discharge permits. The Control Authority may also prohibit the disposal of hauled industrial wastewater. The discharge of hauled industrial wastewater is subject to all other requirements of this article.

(3) Industrial wastewater haulers shall discharge loads only at locations designated by the publicly owned treatment works. No load may be discharged without prior consent of the publicly owned treatment works. The publicly owned treatment works or the Control Authority may collect samples of each hauled load to ensure compliance with applicable standards. The publicly owned treatment works or the Control Authority may require the industrial wastewater hauler to provide a waste analysis of any load prior to discharge.

(4) Industrial wastewater hauler must provide a trip ticket for every load. The trip ticket, including the procedures for its use, is the same as described and provided for in subsection 106-376(d).

(5) The Superintendent of the POTW, or his designated representative, may at any time and without prior notice, refuse to allow the discharge of any specific load of hauled wastewater from any particular liquid waste hauler. This refusal may be based upon such criteria as questionable physical characteristics

of the hauled wastewater (odor, color, etc.), past history of the manifested liquid waste generator, or any other such information or judgment that the discharge may adversely affect the POTW in any way. In the event of such refusal of discharge, the wastehauler shall provide to the Control Authority within thirty (30) days, a manifest indicating the proper disposal of that load of hauled wastewater.

Sec. 106-855. Disposal of Contaminated Water from Leaking Petroleum Storage Tank Sites.

(1) After treatment to specified standards, the contaminated water will be placed in a sanitary sewer line where possible. Disposal into the sanitary sewer system will be based on the quality of the water, the peak flow to be placed into the sewer, sewer capacity available, and the availability of sanitary sewer systems.

(2) If necessary, the treated water can be placed into the storm drainage system. This disposal method will require an Approval Authority permit to discharge the treated water into the surface waters of the State. Disposal via the storm drain system must not create a nuisance to the properties between the affected site and the public stream where discharge is permitted by the Approval Authority.

(3) Where it is not possible or feasible to dispose of the treated waters in the sanitary sewer or the disposal by storm drain will create a nuisance effect, and no other disposal methods are available, the City of Wichita Falls will determine the improvements required in the sanitary or storm drain systems to accept the flow. All improvements will be at the sole expense of the owner of the contaminated site. All improvements must be installed per City of Wichita Falls standards and procedures, and must be dedicated to the City.

(4) All waters from a contaminated site, before disposal into a sanitary sewer, must meet the quality standards of this ordinance with the addition of the following standards for BTEX, lead, and total hydro-carbons:

Chemical	ug/liter	mg/liter
Benzene	1,000	1.0
Toluene	1,000	1.0
Ethyl benzene	1,000	1.0
Xylenes	1,000	1.0
Total BTEX	2,000	2.0
Total Petroleum		
Hydrocarbons (TPH)		2.0
Lead (RiverRoad POTW)		2.26
Lead (Northside POTW)		0.58

(5) Prior to disposal of the treated water from the contaminated site, the site owner must present to the Control Authority a copy of the Approval Authority approved plan for corrective action and, as required, an Approval Authority

permit to discharge to surface waters. The Control Authority will be provided a copy of all laboratory tests conducted to meet the Approval Authority requirements in the plan for corrective action. The Control Authority may require additional tests beyond those of the Approval Authority approved plan of corrective action.

(6) These procedures apply to either pump-and-treat flows or batch releases of treated waters from contaminated sites. Under no circumstances will a site owner dispose of treated waters from a LPST contaminated site in the City of Wichita Falls until authorized to do so by the Control Authority.

(7) The owner will be required to obtain a permit from the Control Authority. This permit must be renewed annually. The owner must pay an initial permit fee and an annual fee to renew the permit. In addition, each month the owner may pay a fee to defray the cost of reviewing lab results and the results of City-initiated sampling and testing to insure compliance with both the Remedial Action Plan and the Industrial Pretreatment Ordinance. These costs must be paid until the site is closed by the Approval Authority and disposal of treated waters has ceased. A statement of the amount of these fees can be obtained from the Control Authority.

(8) If the treated water is disposed of in the sanitary sewer, there will be a minimum monthly charge plus the current commodity charge per 1,000 gallons disposed. The amount disposed generally shall be determined by the rated capacity of the pumps in a pump-and-treat system or by the size of the container in a batch disposal system (added).

Sec. 106-856. Fraud and false statements.

The reports and other documents required to be submitted or maintained under this article shall be subject to:

(1) The provisions of 18 USC 1001 relating to fraud and false statements;

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

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

Secs. 106-857--106-880. Reserved.

DIVISION 5. REPORTING REQUIREMENTS

Sec. 106-881. Baseline monitoring reports.

(a) Within either 180 days after the effective date of a categorical pretreatment standard or 180 days after the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently

discharging to or scheduled to discharge to the publicly owned treatment works shall submit to the Control Authority a report which contains the information listed in subsection (b) of this section. Where reports containing this information already have been submitted to the Control Authority in compliance with the requirements of 40 CFR 128.140(b) (1977), the industrial user will not be required to submit this information again. At least 90 days prior to commencement of discharge, new sources and sources that become industrial users subsequent to the promulgation of an applicable categorical pretreatment standard shall be required to submit to the Control Authority a report which contains the information listed in subsection (b) of this section. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in subsections (b)(4) and (5) of this section.

(b) Users described in subsection (a) of this section shall submit the following information:

(1) Identifying information. The name and address of the facility, including the name of the operator and owners.

(2) Environmental permits. A list of any environmental control permits held by or for the facility.

(3) Description of operations. A brief description of the nature, average rate of production, and standard industrial classification of the operation carried out by the user. This description should include a schematic process diagram which indicates points of discharge to the publicly owned treatment works from the regulated processes.

(4) Flow measurement. Information showing the measured daily and maximum daily flow, in gallons per day, to the publicly owned treatment works from each of the following:

a. Regulated process streams; and

b. Other streams as necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e). (See subsection (b)(5)e of this section.)

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

(5) Measurement of pollutants.

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

b. The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or the Control Authority, of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration and/or mass, where required,

shall be reported. The sample shall be representative of daily operation and shall be analyzed in accordance with procedures set out in section 106-891.

c. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.

d. Sampling must be performed in accordance with procedures set out in section 106-891.

e. The Control Authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

f. The baseline report shall indicate the time, date, and place of sampling and methods of analysis and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the publicly owned treatment works.

(6) Certification. A statement, reviewed by an authorized representative of the industrial user and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.

(7) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional treatment and/or O&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 106-882.

a. Where the industrial user's categorical pretreatment standard has been modified by a removal allowance (40 CFR 403.7), the combined waste stream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) at the time the user submits the report required by subsection (b) of this section, the information required by subsections (b)(6) and (7) of this section shall pertain to the modified limits.

b. If the categorical pretreatment standard is modified by a removal allowance (40 CFR 403.7), the combined waste stream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) after the user submits the report required by subsection (b) of this section, any necessary amendments to the information required by subsections (b)(6) and (7) of this section shall be submitted by the user to the Control Authority within 60 days after the modified limit is approved.

c. The Control Authority shall have the authority to set compliance schedules where and when it so deems necessary or if the user's compliance schedule is deemed inadequate by the Control Authority.

(8) Signature and certification. All baseline monitoring reports must be signed and certified in accordance with section 106-758.

Sec. 106-882. Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by subsection 106-881(b)(7):

(1) The schedule shall contain increments of progress 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 industrial user to meet the applicable categorical pretreatment standards. Such events include but are not limited to hiring an engineer, completing preliminary plans, completing final plans, executing a contract for major components, commencing construction, completing construction, pretreatment system start-up, first discharge, and beginning and conducting routine operation.

(2) No increment referred to in subsection (1) of this section shall exceed nine months.

(3) Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Control Authority, including, at a minimum, whether or not the user complied with the increment of progress to be met on such date and, if not, the date on which the user expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established.

(4) In no event shall more than nine months elapse between such progress reports to the Control Authority.

Sec. 106-883. Reports on compliance with categorical pretreatment standard deadline.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, for a new source, following commencement of the introduction of wastewater into the publicly owned treatment works, any industrial user subject to such pretreatment standards and requirements shall submit to the Control Authority a report containing the information described in subsections 106-881(b)(4)--(6). For industrial users subject to mass or concentration limits established by the Control Authority in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production or other measure of operation, this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 106-758.

Sec. 106-884. Periodic compliance reports for categorical industrial users.

(a) Any industrial user subject to a categorical standard, after the compliance date of such pretreatment standard or, for a new source, after commencement of the discharge into the publicly owned treatment works, shall submit to the Control Authority during the months of June and December, unless required more frequently in the pretreatment standard or by the Control Authority, the Environmental Protection Agency, or the Approval Authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical pretreatment standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in subsection 106-881(b)(4) except that the Control Authority may require more detailed reporting of flows. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may agree to alter the months during which such reports are to be submitted. All compliance reports must be signed and certified in accordance with section 106-758. The samplings may be done in months preceding the submittal months; however, they must be done within the same permit year.

(b) Where the Control Authority has imposed mass limitations on industrial users as provided for by section 106-822, the report required by subsection (a) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.

(c) For industrial users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in 40 CFR 403.6(c), the report required by subsection (a) of this section shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production or other measure of operation, the report required by subsection (a) of this section shall include the user's actual average production rate for the reporting period.

(d) 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.

(e) If a user subject to the reporting requirement in this division monitors any pollutant more frequently than required by the Control Authority, using the procedures prescribed in section 106-891, the results of this monitoring shall be included in this report.

(f) The reports required in this section shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is representative of conditions occurring during the reporting period. The Control Authority shall require that frequency of

monitoring necessary to assess and ensure compliance by industrial users with applicable pretreatment standards and requirements.

(g) All periodic compliance reports must be signed and certified in accordance with section 106-758.

Sec. 106-885. Periodic compliance reports for significant non-categorical industrial users.

Significant non-categorical industrial users shall submit to the Control Authority at least once every six months, on dates specified by the Control Authority, a description of the nature, concentration, and flow of the pollutants required to be reported to the Control Authority. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in section 106-891. All periodic compliance reports must be signed and certified in accordance with section 106-758.

Sec. 106-886. Reports of changed conditions.

(a) Each user must promptly notify the Control Authority in advance of any planned significant or substantial changes to the user's operations or system which might alter the nature, character, quality, or volume of its wastewater at least 30 days before the change.

(b) The Control Authority may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 106-759.

(c) The Control Authority may issue a wastewater discharge permit under section 106-759 or modify an existing wastewater discharge permit under section 106-763 in response to changed conditions or anticipated changed conditions.

(d) For purposes of this section, significant changes include but are not limited to flow increases of 20 percent or greater, the discharge of previously unreported pollution, or the addition of any process subject to categorical pretreatment standards.

Sec. 106-887. Reports of potential problems.

(a) If any discharge, including but not limited to accidental discharges, discharges of a non-routine episodic nature, a non-customary batch discharge, or any slug load, that may cause potential problems for the publicly owned treatment works or for a reportable slug load, the user shall immediately telephone and notify the Control Authority and the appropriate publicly owned treatment works 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.

(b) Within five days following such discharge, the user shall, unless waived by the Control Authority, submit a detailed written report describing the

cause 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 publicly owned treatment works, 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.

(c) Every significant industrial user shall permanently post a notice on the user's bulletin board or other prominent place advising employees and contractors whom to call if a discharge described in subsection (a) of this section occurs. Employers shall ensure that all employees and contractors, who may cause such discharge to occur, are advised of the emergency notification.

Sec. 106-888. Reports from other users.

(a) All other users required to obtain a wastewater discharge permit shall provide such information and reports to the Control Authority as required by the wastewater discharge permit.

(b) All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Control Authority as the Control Authority may require.

Sec. 106-889. Notice of violation; repeat sampling and reporting.

If sampling performed by an industrial user indicates a violation, the user shall notify the Control Authority within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation, except the industrial user is not required to resample if the Control Authority performs sampling at the industrial user:

- (1) At a frequency of at least once a month; or
- (2) Between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

Sec. 106-890. Discharge of hazardous waste.

Under this article, all users are prohibited from discharging hazardous waste.

Sec. 106-891. Sampling and analytical requirements.

(a) All pollutant sampling and analyses to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question or where the administrator determines that the 40 CFR part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical

procedures, including procedures suggested by the publicly owned treatment works or other parties, approved by the administrator.

(b) A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The Control Authority may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

(c) Submissions of all pollutant analyses shall contain the following:

(1) A copy of the laboratory report shall be attached. The report shall include the following information:

- a. The name, address, and telephone number of the laboratory performing the analysis.
- b. The units in which each parameter is reported.
- c. The method of analysis used (e.g., Environmental Protection Agency 335.1, 3500-Zn-A, etc.). The method must be a technique for wastewater analysis as prescribed in 40 CFR part 136.
- d. The detection limit for each parameter measurement.
- e. The name, initials, or other such unambiguous identification of the analyzing technician.
- f. The date each analysis was performed.
- g. The signature of the laboratory director, or equivalent position.
- h. Quality control data (e.g., spikes, etc.).
- i. The results of the analyses.

(2) A copy of the chain of custody records shall be attached. Each record shall have the following:

- a. The name and address of the user being sampled.
- b. The sample container identification number or other such unique, unambiguous identification.
- c. For a grab sample, the date and time the sample was taken.

- d. For a composite sampling, the date and time the composite sampler was set up and the date and time the composite sampler was retrieved.
- e. The exact sampling point of the sample.
- f. The method of taking the sample (i.e., grab sample, automatic or manual flow-proportioned composite sample, automatic or manual time-proportioned composite sample, etc.).
- g. The name, title, and signature of the person taking the sample.
- h. The method of preservation of the sample and the date and time it was preserved, or if no preservation was necessary.
- i. The date and time dispatched for analysis, the name of the dispatcher, and the method of shipment, if the sample was so dispatched.
- j. The name of the individual, company, and/or address to which the sample is dispatched.
- k. The signature of the receiver of the sample, the date and time of its receipt, who it was received from, and its disposition.

Sec. 106-892. Timing.

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

Sec. 106-893. Record keeping.

(a) Any industrial user subject to the reporting requirements of this article shall retain and maintain records of all information resulting from monitoring activities required by this article and 40 CFR 403.12. Such records shall include the following activities:

- (1) The date, exact place, method, and time of sampling and the name of the person taking the samples;
- (2) The dates analyses were performed;
- (3) Who performed the analyses;
- (4) The analytical techniques/methods used; and
- (5) The results of such analyses.

(b) Users subject to the reporting requirements established by this article or 40 CFR 403.12 shall be required to retain for a minimum of three years

any records of monitoring activities and results, whether or not such monitoring activities are required by this article or 40 CFR 403, and shall make such records available for inspection and copying by the director, the regional administrator, the Approval Authority, and/or the Control Authority. This period of retention shall be automatically extended during the course of any unresolved litigation regarding the industrial user, the Control Authority, and/or the publicly owned treatment works or when requested by the director, the regional administrator, the Approval Authority, and/or the Control Authority.

(c) Subsections (a) and (b) of this section shall also apply to the Control Authority.

Secs. 106-894--106-920. Reserved.

DIVISION 6. FEES, RATES AND CHARGES

Sec. 106-921. 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 the following:

(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.

(5) Surcharges for BOD and TSS above the value of 300 mg/l, and fats, oils and grease above 100 mg/l.

(6) Other fees as the city may deem necessary to carry out the requirements contained in this article. 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.

Secs. 106-924--106-950. Reserved.”

SECTION 2. Severability. If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. This ordinance shall take effect immediately from and after passage and publication in accordance with the provisions of the Charter of the

City of Wichita Falls, Texas, and after approval by the Approval Authority, it is accordingly so ordained.

SECTION 5. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

PASSED AND APPROVED THIS THE _____ day of _____, 2002.

MAYOR

ATTEST:

City Clerk