

# PRETREATMENT ORDINANCE

## ORDINANCE NO. 2091

### SECTION 1 – GENERAL PROVISIONS

#### 1.1 Purpose and Policy

This ordinance sets forth uniform requirements for users of the wastewater collection and Publicly Owned Treatment Works (POTW) for the City of Sulphur Springs and enables the City to comply with all applicable State and Federal laws including the Clean Water Act (33 U.S.C. 1251 et seq.), and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
- B. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
- C. To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- D. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- E. To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;
- F. To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW; and
- G. To enable the City to comply with its NPDES permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the POTW is subject.

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

#### 1.2 Administration

Except as otherwise provided herein, the Director of Utilities shall administer, implement

and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Director of Utilities may be delegated by the Director of Utilities to other City personnel.

### 1.3 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

- A. Act or “the Act”. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.
- B. Approval Authority. An NPDES State with an approved State Pretreatment Program; otherwise, the appropriate Regional Administrator of the U.S. EPA, or his designee.
- C. Authorized Representative of the Industrial User.

- 1. If the industrial user is a corporation, authorized representative shall mean:
  - 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;
  - b. the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- 2. If the industrial user is a partnership, or sole proprietorship, an authorized representative shall mean a general partner or proprietor, respectively;
- 3. If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;
- 4. The individuals described in paragraphs 1-3 above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

- D. Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the

biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20 deg. Centigrade expressed in terms of mass and concentration [ milligrams per liter (mg/l)].

- E. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307 (b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- F. City. The City of Sulphur Springs or the City Council of Sulphur Springs.
- G. Color. The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.
- H. Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
- I. Daily average concentration. The arithmetic average (weighted by flow) of all values for discharges, composite or grab, taken within a period of one calendar month.
- J. Director of Utilities (DU). The Director of Utilities or his designee.
- K. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the regional Water Management Division Director or other duly authorized official of said agency.
- L. Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication 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.
- M. Grab Sample. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.
- N. Indirect Discharge or Discharge. The introduction of (nondomestic) pollutants into the POTW from any nondomestic source regulated under Section 307 (b), (c) or (d) of the Act.
- O. Industrial User or User. A source of indirect discharge.
- P. Instantaneous Maximum Allowable Discharge Limit. The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.
- Q. Interference. A discharge which alone or in conjunction with a discharge or discharges from other sources: 1) inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and 2) therefore is a cause of a violation of the City of Sulphur Springs's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act ; the Solid Waste Disposal Act (SWDA), including Title II

commonly referred to as the Resource Conservation and Recovery Act (RCRA); and State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; and Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

- R. Medical Waste. Isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.
- S. New Source.
  - (1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307 (c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
    - (a) The building, structure, facility or installation is constructed at a site at which no other source is located; or
    - (b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
    - (c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
  - (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Section (1) (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
  - (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
    - (a) Begun, or caused to begin as part of a continuous onsite construction program
      - (i) Any placement, assembly, or installation of facilities or equipment, or
      - (ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or

facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

- (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase of contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
  
- T. Noncontact Cooling Water. Water used for cooling which does not come in direct contact with any raw material intermediate product, waste product, or finished product.
- U. Pass Through. A discharge which exits the POTW into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation).
- V. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State or local governmental entities.
- W. pH. A measure of the acidity or alkalinity of a substance, expressed in standard units.
- X. Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, odor].
- Y. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- Z. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.
- AA. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibitive discharge standards, categorical pretreatment standards, and local limits.
- BB. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.
- CC. Publicly Owned Treatment Works or POTW. A "treatment works" as

defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the State or municipality. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.

- DD. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- EE. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.)
- FF. Significant Industrial User. Shall apply to: a) industrial users subject to categorical pretreatment standards; and b) any other industrial user that i) discharges an average of 25,000 gpd or more of process wastewater, ii) contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the treatment plant or, iii) is designated as significant by the City on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- GG. Slug Load. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 2.1 of this ordinance or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.
- HH. Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.
- II. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.
- JJ. Utility Director. The person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance, or his duly authorized representative.
- KK. Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- LL. Toxic Pollutant. One of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. 1317) of the Act.
- MM. Treatment Plant Effluent. Any discharge of pollutants from the POTW into waters of the State.
- NN. Wastewater. Liquid and water carried industrial wastes, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- OO. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW designed to provide treatment of sewage and industrial waste.

Shall is mandatory; may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

#### 1.4 Abbreviations

The following abbreviations shall have the designated meanings:

* BOD	-	Biochemical Oxygen Demand
* CFR	-	Code of Federal Regulations
* COD	-	Chemical Oxygen Demand
* EPA	-	U.S. Environmental Protection Agency
* gpd	-	Gallons Per Day
* l	-	Liter
* mg	-	Milligrams
* mg/l	-	Milligrams per liter
* NPDES	-	National Pollutant Discharge Elimination System
* O & M	-	Operation and Maintenance
* POTW	-	Publicly Owned Treatment Works
* RCRA	-	Resource Conservation and Recovery Act
* SIC	-	Standard Industrial Classifications
* SWDA	-	Solid Waste Disposal Act (42 U.S.C. 6901, <u>et seq.</u> )
* TSS	-	Total Suspended Solids
* USC	-	United States Code

## SECTION 2 - GENERAL SEWER USE REQUIREMENTS

### 2.1 Prohibited Discharge Standards

No industrial user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all industrial users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State or local pretreatment standards or requirements. Furthermore, no industrial user may contribute the following substances to the POTW:

- A. Pollutants which create a fire or explosive hazard in the municipal wastewater collection and POTW, including , but not limited to, wastestreams with a closed-cup flashpoint of less than 140 deg. F (60 deg. C) using the test methods specified in 40 CFR 261.21.
- B. Any wastewater having a pH less than 5.0 or more than 12, or otherwise causing corrosive structural damage to the POTW or equipment, or endangering City personnel.
- C. Solid viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than three inches ( 3") or eight centimeters (8cm) in any dimension.

- D. Any wastewater containing 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 either the POTW, or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals.
- E. Any wastewater having a temperature greater than 180 deg. F (82 deg. C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 deg. F ( 40 deg. C).
- F. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- G. Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- H. Any trucked or hauled pollutants, except at discharge points designated by the City in accordance with section 3.5.
- I. Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair.
- J. Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the City's NPDES permit. Color ( in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than 10 percent from the seasonably established norm for aquatic life.
- K. Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director of Utilities in compliance with applicable State or Federal regulations.
- L. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the Director of Utilities.
- M. Any sludges, screenings, or other residues from the pretreatment of industrial wastes.
- N. Any medical wastes, except as specifically authorized by the Director of Utilities in a wastewater discharge permit.
- O. Any wastewater causing the treatment plant's effluent to fail a toxicity test.
- P. Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the POTW.
- Q. Any discharge of fats, oils, or greases of animal or vegetable origin in excess of 300 mg/l which causes sewer clogs, interference, pass through or which exceeds the grease handling capacity of the wastewater treatment plant.

Wastes prohibited by this section shall not be processed or stored in such a manner that

they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW.

## 2.2 Federal Categorical Pretreatment Standards

The national pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

## 2.3 State Requirements

State of Texas pretreatment standards are hereby incorporated when and as promulgated.

## 2.4 Specific Pollutant Limitations

The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily average discharge concentration limits:

- 0.3 mg/l arsenic
- 0.4 mg/l cadmium
- 5.0 mg/l chromium (total)
- 5.0 mg/l copper
- 0.9 mg/l cyanide
- 0.2 mg/l lead
- 0.2 mg/l mercury
- 5.0 mg/l nickel
- 0.1 mg/l silver
- 5.0 mg/l zinc

Concentrations apply at the point where the industrial waste is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. At his discretion, the Director of Utilities may impose mass limitations in addition to or in place of the concentration based limitations above.

## 2.5 City's Right of Revision

The City of Sulphur Springs reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in Section 1.1 of this ordinance or the general and specific prohibitions in Section 2.1 of this ordinance.

## 2.6 Special Agreement

The City of Sulphur Springs reserves the right to enter into special agreements with industrial users setting out special terms under which they may discharge to the POTW.

In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from EPA. Such a request will be approved only if the industrial user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

## 2.7 Dilution

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

## SECTION 3 - PRETREATMENT OF WASTEWATER

### 3.1 Pretreatment Facilities

Industrial users shall provide necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in Section 2.1 above within the time limitations specified by the EPA, the State, or the Director of Utilities – whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the City of Sulphur Springs under the provisions of this ordinance.

### 3.2 Additional Pretreatment Measures

- A. Whenever deemed necessary, the Director of Utilities may require industrial users to restrict their discharge during peak flow period, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the industrial user's compliance with the requirements of this ordinance.

- B. A wastewater discharge permit may be issued solely for flow equalization.
- C. Grease, oil and sand interceptors shall be provided when, in the opinion of the Director of Utilities, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of the type and capacity approved by the Director of Utilities and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the owner at his expense.
- D. Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- E. Industrial Users that discharge greater than 5% of the organic loading of the POTW and who discharge COD concentrations greater than 4000 mg/l COD will be required to pretreat their industrial waste.

### 3.3 Accidental Discharge/ Slug Control Plan

The Director of Utilities may require any industrial user to develop and implement an accidental discharge/ slug control plan. Any industrial user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges.
- B. Description of stored chemicals.
- C. 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 run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

### 3.4 Tenant Responsibility

Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this ordinance.

### 3.5 Hauled Wastewater

- A. Septic Tank waste may be accepted into the POTW at a designated receiving structure within the treatment plant area, and at such times and fees as are established by the Director of Utilities, provided such wastes do not violate Section 2 of this ordinance or any other requirements established or adopted by the City. Wastewater discharge permits for individual vehicles to use such facilities shall be issued by the Director of Utilities.
- B. The discharge of hauled industrial wastes as “industrial septage” requires prior approval and a wastewater discharge permit from the City. The Director of Utilities shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation. Waste haulers are subject to all sections of this ordinance.

### 3.6 Vandalism

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or any other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in Sections 10 – 12, below.

## SECTION 4 - WASTEWATER DISCHARGE PERMIT ELIGIBILITY

### 4.1 Wastewater Survey

When required by the Director of Utilities all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The Director of Utilities is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of this ordinance.

### 4.2 Wastewater Discharge Permit Requirement

- A. It shall be unlawful for any significant industrial user to discharge a wastewater into the City’s POTW without first obtaining a wastewater discharge permit from the Director of Utilities. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 10 – 12. 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.
- B. The Director of Utilities may require other industrial users, including liquid

waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.

#### 4.3 Wastewater Discharge Permitting Existing Conditions

Any significant industrial user which discharges industrial waste into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within One Hundred Eighty (180) days after said date, apply to the City for a wastewater discharge permit in accordance with Section 4.6 below, and shall not cause or allow discharges to the POTW to continue after One Hundred Eighty (180) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Director of Utilities.

#### 4.4 Wastewater Discharge Permitting New Connections

Any significant industrial user proposing to begin or recommence discharging Industrial wastes into the POTW must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application of this wastewater discharge permit must be filed at least One Hundred Eighty (180) days prior to the date upon which any discharge will begin.

#### 4.5 Wastewater Discharge Permitting Extrajurisdictional Industrial Users

- A. Any significant industrial user located beyond the City limits shall submit a wastewater discharge permit application, in accordance with Section 4.6 below, within One Hundred Eighty (180) days of the effective date of this ordinance. New significant industrial users located beyond the City limits shall submit such applications to the Director of Utilities One Hundred Eighty (180) days prior to any proposed discharge into the POTW.
- B. Alternately, the Director of Utilities may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against said industrial user.

#### 4.6 Wastewater Discharge Permit Application Contents

In order to be considered for a wastewater discharge permit, all industrial users required to have a wastewater discharge permit must submit the information required by Section 6.1(B) of this ordinance. The Director of Utilities shall approve a form to be used as a permit application. In addition, the following information may be requested:

- A. 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 into the POTW.

- B. Number and type of employees, hours of operation, and proposed or actual hours of operation of the POTW.
- C. Each product produced by type, amount process or processes, and rate of production.
- D. Type and amount of raw materials processed (average and maximum per day).
- E. The 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.
- F. Time and duration of the discharge.
- G. Any other information as may be deemed necessary by the Director of Utilities to evaluate the wastewater discharge permit application.

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

#### 4.7 Application Signatories and Certification

All wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user.

“ 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 to us is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

#### 4.8 Wastewater Discharge Permit Decisions

The Director of Utilities will evaluate the data furnished by the industrial user and may require additional information. Within Ninety (90) days of receipt of a complete wastewater discharge permit application, the Director of Utilities will determine whether or not to issue a wastewater discharge permit. If no determination is made within this time period, the application will be deemed denied. The Director of Utilities may deny any application for a wastewater discharge permit.

### SECTION 5 - WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

### 5.1 Wastewater Discharge Permit Duration

Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Director of Utilities. Each wastewater discharge permit will indicate a specific date upon which it will expire.

### 5.2 Wastewater Discharge Permit Contents

Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Director of Utilities to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the POTW.

#### A. Wastewater discharge permits must contain the following conditions:

1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years.
2. A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from the City, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
3. Effluent limits applicable to the user based on applicable standards in Federal, State, and local law.
4. Self monitoring, sampling reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
5. Statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

#### B. Wastewater discharge permits may contain, but need not be limited to the following:

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
2. Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or

properties.

3. 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.
4. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges.
5. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
6. The unit charge or schedule of industrial user charges and fees for the management of the wastewater discharged to the POTW.
7. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
8. 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.
9. Other conditions as deemed appropriate by the Director of Utilities to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

### 5.3 Wastewater Discharge Permit Modification

The Director of Utilities may modify the wastewater discharge permit for good cause including, but not limited to the following:

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements.
- B. To address significant alteration or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance.
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge
- D. Information indicating that the permitted discharge poses a threat to the City's POTW, City of Sulphur Springs personnel, or the receiving waters

- E. Violation of any terms or conditions of the wastewater discharge permit
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13
- H. To correct typographical or other errors in the wastewater discharge permit
- I. To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

#### 5.4 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least Sixty (60) days advance notice to the Director of Utilities and the Director of Utilities approves the wastewater discharge permit transfer. The notice to the Director of Utilities must include a written certification by the new owner and/or operator which:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes
- B. Identifies the specific date on which the transfer is to occur
- C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

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

#### 5.5 Wastewater Discharge Permit Revocation

Wastewater discharge permits may be revoked for the following reasons:

- A. Failure to notify the City of significant changes to the wastewater prior to the changed discharge
- B. Failure to provide prior notification to the City of changed condition pursuant to Section 6.5

- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- D. Falsifying self – monitoring reports.
- E. Tampering with monitoring equipment.
- F. Refusing to allow the City timely access to the facility premises and records.
- G. Failure to meet effluent limitations.
- H. Failure to pay fines
- I. Failure to pay sewer charges
- J. Failure to meet compliance schedules
- K. Failure to complete a wastewater survey or the wastewater discharge permit application
- L. Failure to provide advance notice of the transfer of a permitted facility
- M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the ordinance.

Wastewater discharge permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit.

## Section 6 – REPORTING REQUIREMENTS

### 6.1 Baseline Monitoring Reports

- A. Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6 (a) (4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the City a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the City a report which contains the information listed in paragraph B below. A new source shall also be required to report the method of pretreatment it intends to use to

meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

- B. The industrial user shall submit the information required by this section including:
1. Identifying Information. The name and address of the facility including the name of the operator and owners.
  2. Wastewater Discharge Permits. A list of any environmental control wastewater discharge permits held by or for the facility.
  3. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
  4. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6 (e).
  5. Measurement of Pollutants.
    - a. Identify the categorical pretreatment standards applicable to each regulated process.
    - b. Submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the City of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.9.
    - c. Sampling must be performed in accordance with procedures set out in Section 6.10.
  6. Certification. A statement reviewed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis—and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet pretreatment standard 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 pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 4.6 (N) of this ordinance.
8. All baseline monitoring reports must be signed and certified in accordance with Section 4.7.

#### 6.2 Compliance Schedule Progress Report

The following conditions shall apply to the schedule required by 6.1 (B) (7). The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation). No increment referred to above shall exceed nine (9) months. The industrial user shall submit a progress report to the Director of Utilities no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, (any, if appropriate) the steps being taken by the industrial user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the Director of Utilities.

#### 6.3 Report on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to such pretreatment standards and requirements shall submit to the City a report containing the information described in Section 6.1 (B) (4-6). For industrial users subject to the procedures in 40 CFR 403.6 (c), this report shall contain a reasonable measure of the industrial 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 industrial user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4.7.

#### 6.4 Periodic Compliance Reports

- A. Any significant industrial user subject to a pretreatment standard, at a frequency determined by the Director of Utilities but in no case less than twice

per year (in September and March), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 4.7.

- B. All wastewater samples must be representative of the industrial 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 an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.
- C. If an industrial user subject to the reporting requirement in and of this Section monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in Section 6.9 of this ordinance the results of this monitoring shall be included in this report.

#### 6.5 Report of Changed Conditions

Each industrial user is required to notify the Director of Utilities of any planned significant changes to the industrial user's operations or system which might alter the nature, quality or volume of its wastewater.

- A. The Director of Utilities may require the industrial user to submit such information as may be deemed necessary to evaluate this changed condition, including the submission of a wastewater discharge permit application under Section 4.6.
- B. The Director of Utilities may issue a wastewater discharge permit under Section 4.8 or modify an existing wastewater discharge permit under Section 5.
- C. No industrial user shall implement the planned changed condition(s) until and unless the Director of Utilities has responded to the industrial user's notice.
- D. For purposes of this requirement flow increases of ten percent (10%) or greater, and the discharge of any previously unreported pollutants, shall be deemed significant.

#### 6.6 Reports of Potential Problems

- A. In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load which may cause potential problems for the POTW (including a violation of the prohibited discharge standards in Section 2.1 of this ordinance), it is the responsibility of the industrial user to immediately

telephone and notify the City of Sulphur Springs 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 industrial user.

- B. Within five (5) days following such discharge, the industrial user shall, unless waived by the Director of Utilities, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this ordinance.
- C. Failure to notify the City of potential problem discharges shall be deemed a separate violation of this ordinance.
- D. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause or suffer a discharge to occur, are advised of the emergency notification procedure.

#### 6.7 Reports from Nonsignificant Industrial Users

All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the City as the Director of Utilities may require.

#### 6.7 Notice of Violation / Repeat Sampling & Reporting

If sampling performed by an industrial user indicates a violation, the industrial user must notify the control Authority within 24 hours of becoming aware of the violation. The industrial 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. The industrial user is not required to resample if the POTW performs monitoring at the industrial user's at least once a month, or if the POTW performs sampling between the industrial user's initial sampling and when the industrial user receives the results of this sampling.

#### 6.9 Analytical Requirements

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

## 6.10 Sample Collection

- A. Except as indicated in Section B, below, the industrial user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Director of Utilities may authorize the use of time proportional sampling or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- B. Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

## 6.11 Determination of Noncompliance

The Director of Utilities may use a grab sample(s) to determine noncompliance with pretreatment standards.

## 6.12 Timing

Written reports will be deemed to have been submitted on the date post-marked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern.

## 6.13 Record Keeping

Industrial users shall retain, and make available for inspection and copying, all records and information required to be retained under this ordinance. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning compliance with this ordinance, or where the industrial user has been specifically notified of a longer retention period by the Director of Utilities.

# SECTION 7 - COMPLIANCE MONITORING

## 7.1 Inspection and Sampling

The City of Sulphur Springs shall have the right to enter the facilities of any industrial user to ascertain whether the purpose of this ordinance, and any permit or order issued hereunder, is being met thereof. Industrial users shall allow the Director of Utilities or the City's representatives ready access to all parts of premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where an industrial user has security measures in force which require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the City, State, and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.
- B. The City of Sulphur Springs, State, and EPA shall have the right to set up on the industrial user's property, or require installation of, such devices that are necessary to conduct sampling and/or metering of the user's operations.
- C. The City may require the industrial user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated [periodically] to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the Director of Utilities and shall not be replaced. The costs of clearing such access shall be borne by the industrial user.
- E. Unreasonable delays in allowing City personnel access to the industrial user's premises shall be a violation of this ordinance.

## 7.2 Search Warrants

If the Director of Utilities has been refused access to a building, structure, or property of any part thereof, and if the Director of Utilities has demonstrated probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect as part of a routine inspection program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then upon application by the City Attorney, the Municipal Court Judge of the City of Sulphur Springs shall issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Director of Utilities in the company of a uniformed police officer of the City. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

## SECTION 8 - CONFIDENTIAL INFORMATION

Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the City inspection and sampling activities, shall be available to the public

without restriction- -unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to government agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other “effluent data” as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

## SECTION 9 – PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE

The City of Sulphur Springs shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the industrial users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a 6-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a 6-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria [1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH];
- C. Any other discharge violation that the City believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public);
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City’s exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

- F. Failure to provide within 30 days after the due date, any required reports, including baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance;
- H. Any other violation(s) which the City determines will adversely affect the operation or implementation of the local pretreatment program.

## SECTION 10 - ADMINISTRATIVE ENFORCEMENT REMEDIES

### 10.1 Notification of Violation

Whenever the Director of Utilities finds that any user has violated or is violating this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirement, the Director of Utilities may serve upon said user a written Notice of Violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Director of Utilities. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the City of Sulphur Springs to take any action, including emergency actions or any enforcement action, without first issuing a Notice of Violation.

### 10.2 Consent Orders

The Director of Utilities is hereby empowered to enter into Consent Orders, assurances, of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 below and shall be judicially enforceable.

### 10.3 Show Cause Orders

The Director of Utilities may order any user which causes or contributes to violation(s) of this ordinance, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirement, to appear before the Director of Utilities and show cause why a 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 reason for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least Ten (10)

days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.

#### 10.4 Compliance Orders

When the Director of Utilities finds that a user has violated or continues to violate the ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment standard or requirement, he may issue an order to the user responsible for the discharge directing the user come into compliance within a specific time frame. If the user does not come into compliance within this time frame, sewer service may be discontinued unless adequate treatment facilities, devices, or the related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

#### 10.4 Cease and Desist Orders

When the Director of Utilities finds that a user is violating this ordinance, the user's wastewater discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Director of Utilities may issue an order to the user to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements
- B. 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.

Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

#### 10.5 Emergency Suspensions

The Director of Utilities may immediately suspend a user's discharge (after informal notice to the user) whenever suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to be present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director of Utilities may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or

may present an endangerment to the environment.

- A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director of Utilities shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director of Utilities shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed, unless the termination proceedings set forth in Section 10.7 are initiated against the user.
- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Director of Utilities, prior to the date of any show cause or termination hearing under Sections 10.3 and 10.7.

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

#### 10.6 Termination of Discharge

In addition to those provisions in Section 5.6 of this ordinance, any user that violates the following conditions of this ordinance, wastewater discharge permits, or orders issued hereunder, is subject to discharge termination.

- A. Violation of wastewater discharge permit conditions
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge
- C. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling
- E. Violation of the pretreatment standards in Section 2 or this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of this ordinance why the proposed action should not be taken.

## SECTION 11 - JUDICIAL ENFORCEMENT REMEDIES

### 11.1 Injunctive Relief

Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this ordinance, wastewater discharge permits or orders issued hereunder, or any other pretreatment requirement, the Director of Utilities may petition the Municipal Court through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the industrial user. Such other actions as appropriate for legal and/or equitable relief may also be sought by the City. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

### 11.2 Civil Penalties

- A. Any user which has violated or continues to violate this ordinance, any order or wastewater discharge permit hereunder, or any other pretreatment standard or requirement shall be liable to the Director of Utilities for a maximum civil penalty of \$2000 per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. The Director of Utilities may recover reasonable attorney's 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, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factors as justice requires.
- D. Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a user.

### 11.3 Criminal Prosecution

- A. Any user that willfully or negligently violates any provision of this ordinance, any orders or wastewater discharge permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$2000.00 per violation per day.
- B. Any user that willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$2000.00. This penalty shall be in addition to any other cause of action for

personal injury or property damage available under State law.

- 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 ordinance, wastewater discharge permit or order, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine not more than \$2000.00 per violation per day or imprisonment for not more than two years or both.

#### 11.4 Remedies Nonexclusive

The provisions in Sections 9-12 are not exclusive remedies. The City of Sulphur Springs reserves the right to take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's Enforcement Response Plan. However, the City reserves the right to take other action against any user when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

### SECTION 12 - SUPPLEMENTAL ENFORCEMENT ACTION

#### 12.1 Water Supply Severence

Whenever a user has violated or continues to violate the provisions of this ordinance, orders, or wastewater discharge permits issued hereunder, 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.

#### 12.2 Public Nuisances

Any violation of this ordinance, wastewater discharge permits, or orders issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director of Utilities or his designee. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code governing such nuisances, including reimbursing the City for any costs incurred in removing, abating or remedying said nuisance.

### SECTION 13 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

#### 13.1 Upset

- A. For the purpose of this section, "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

- industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph © are met.
- C. An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operation logs, or other relevant evidence that:
- (1) An upset occurred and the industrial user can identify the cause(s) of the upset;
  - (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
  - (3) The industrial user has submitted the following information to the POTW and treatment plant operator within 24 hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days];
    - (i) A description of the indirect discharge and cause of noncompliance
    - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue
    - (iii) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Industrial 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. The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

### 13.2 General/Specific Prohibitions

An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in Section 2.1 of this ordinance if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to, and during, the pass through or interference, or (b) 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 NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

### 13.3 Bypass

- (A) (1) "Bypass" means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.
- (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (B) An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.
- (C) (1) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least ten days before the date of the bypass if possible.
- (2) An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- (D) (1) Bypass is prohibited, and the POTW may take enforcement action against an industrial user for a bypass, unless;

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

- (2) The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

## SECTION 14 - MISCELLANEOUS PROVISIONS

### 14.1 Pretreatment Charges and Fees

The City of Sulphur Springs may adopt reasonable charges and fees for reimbursement of costs of setting up and operating the City's Pretreatment Program which may include:

- (A) Fees for wastewater discharge permit applications including the cost of processing such applications.
- (B) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing an industrial user's discharge, and reviewing monitoring reports submitted by industrial users.
- (C) Fees for reviewing and responding to accidental discharge procedures and construction.
- (D) Fees for filing appeals.
- (E) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines and penalties chargeable by the City.

### 14.2 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.

14.3 Conflicts

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance, are hereby repealed to the extent of the inconsistency or conflict.

SECTION 15 - EFFECTIVE DATE

This ordinance shall be in full force and effect immediately following its passage, approval by EPA and publication, as provided by law.

INTRODUCED the \_\_\_\_ day of \_\_\_\_\_ 200\_\_.

FIRST READING: \_\_\_\_ day of \_\_\_\_\_ 200\_\_.

SECOND READING: \_\_\_\_ day of \_\_\_\_\_ 200\_\_.

PASSED this \_\_\_\_ day of \_\_\_\_\_ 200\_\_.

AYES:

NAYS:

ABSENT:

NOT VOTING:

APPROVED by me this \_\_\_\_ day of \_\_\_\_\_ 200\_\_.

\_\_\_\_\_

Mayor

ATTEST: \_\_\_\_\_

City Secretary

PUBLISHED: \_\_\_\_\_

Publication

Date