

**ORDINANCE NO. 11-11-01**

**AN ORDINANCE OF "THE CITY OF ENNIS, TEXAS, REPEALING ALL ORDINANCES, OR PARTS OF ORDINANCES, OR AMENDMENTS THERETO, THAT CONFLICT WITH THE TERMS AND CONDITIONS OF THIS ORDINANCE AND ENACTING IN LIEU THEREBY A NEW ORDINANCE OF THE CITY OF ENNIS, TEXAS: ESTABLISHING A PERMIT SYSTEM; ESTABLISHING OF CHARGES FOR SERVICES RENDERED; REGULATING UNSEWERED AND MISCELLANEOUS DISCHARGES AND DISPOSALS; PROVIDING FOR FINES AND PENALTIES; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION THEREOF;**

WHEREAS, it has become necessary to amend the City of Ennis, Texas's wastewater ordinance to comply with all State and Federal laws;

WHEREAS, the City of Ennis, Texas, has provided facilities for the collection and treatment of wastewater to promote the health, safety and convenience of its People for the safeguarding of water resources common to all; and,

WHEREAS, provision has been made in the design, construction and operation of such facilities to accommodate certain types and quantities of industrial wastes in addition to normal wastewater; and,

WHEREAS, it is the obligation of the producers of industrial waste to defray the costs of the wastewater treatment services rendered by the City of Ennis, Texas in an equitable manner and, insofar as it is practicable in proportion to benefits derived; and,

WHEREAS, protection of the quality of the effluent and proper operation of the wastewater collection and treatment facilities and quality of effluent may require either the exclusion, pretreatment, or controlled discharge at point of origin of certain types of quantities of industrial wastes;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF ENNIS, TEXAS

**SECTION 1 – GENERAL PROVISIONS**

**ORDINANCE NO. 11-11-01**

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 Ennis, Texas, Ellis County and enables the City of Ennis, Texas 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 pass through the POTW, inadequately treated, into the receiving waters or otherwise be incompatible with the POTW.
- C. To prevent the introduction of pollutants into the POTW which pass through the POTW, inadequately treated, into the receiving waters or otherwise be incompatible with the POTW.
- D. To ensure that the quality of the wastewater treatment sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations.
- E. To protect POTW personnel who may be affected by wastewater and sludge from the POTW.
- F. To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW.
- G. To provide for fees for the equitable distribution of the cost operation, maintenance and improvement of the POTW.
- H. To enable the City of Ennis, Texas to comply with its NPDES permit conditions, sludge use and disposal requirements and any other Federal or State law 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 user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established 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 of Ennis, Texas personnel.

## 1.3 Definitions

- 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. Administrator, Region 6, U.S. Environmental Protection Agency, 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 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 operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where 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 respectfully.
  - 3. If the industrial user is a Federal, State or local governmental 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 paragraph 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 of Ennis, Texas.
- 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 degrees centigrade expressed in terms of either mass (pounds per day (ppd) and/or concentration (milligrams per liter (mg/l)).
- E. Categorical Industrial User (CIU). All Industrial Users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N.
- F. 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 specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- G. City. City of Ennis, Texas

- H. 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 (0.00) optical density.
- I. Composite Sample. The sample resulting from the combination of individual wastewater samples taking at selected intervals based on an increment of either flow or time.
- J. Control Authority (CA). The term Control Authority refers to:
1. The POTW if the POTW's Pretreatment Program Submission has been approved in accordance with the requirements of § 403.11; or
  2. The Approval Authority if the submission has not been approved.
- K. Daily Discharge. Means the "discharge of a pollutant" measured during a calendar day or any 24-hour period that reasonably represents the calendar day for the purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.
- L. Daily Maximum Limit. Means the highest allowable "daily discharge"
- M. 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 Director or other duly authorized official of said agency.
- N. Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication of proposed pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- O. 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 but not to exceed 15 minutes.
- P. 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.
- Q. Industrial User or User. A source of indirect discharge.
- R. Instantaneous Maximum Allowable Discharge Limit. Maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and duration of the sampling event.

- S. 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 sludge processes, use or disposal; and (2) therefore is a cause of a violation of City of Ennis, Texas'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); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substance Control Act; and the Marine Protection, Research and Sanctuaries Act.
- T. 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.
- U. Monthly Average Limit. Means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
- V. National Pretreatment Standard, Pretreatment Standard, or Standard. Means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307 (b) and (c) of the ACT, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to § 403.5.
- W. New Source.
1. Any building, structure, facility or installation from which there is or may be a discharge of pollutant, the construction of which commenced after the publication of the proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards or 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 is defined under this paragraph has commenced if the owner or operator has:
    - a. Begun, or caused to begin as part of a continuous onsite construction program: (i) Any placement, assembly or installation of facilities or equipment, or (ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
    - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design study do not constitute a contractual obligation under this paragraph.
- X. Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material intermediate product, waste product, or finished product.
- Y. Non Significant Industrial User. Any industrial user not defined as a significant or categorical industrial user under this ordinance which the City of Ennis, Texas believes requires regulation to insure the protection of the POTW.
- Z. 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 of Ennis, Texas's NPDES permit (including an increase in the magnitude or duration of a violation).
- AA. Person. Any individual, partnership, copartnership, 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 included all Federal, State or local governmental entities.
- BB. pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions is measured as grams per liter and expressed as standard units.
- CC. 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].

- DD. 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 diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- EE. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.
- FF. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibitive discharge standards, categorical pretreatment standards, and local limits.
- GG. Process Wastewater. Means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.
- HH. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2 of this ordinance.
- II. 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.
- JJ. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- KK. Sewage. Human excrement and gray water and any household discharge.
- LL. 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 25000 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 of Ennis, Texas 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.

- MM. Slug Load. Any discharge at flow rate or concentration which could cause a violation of the prohibited discharge standards in Section. 2 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 which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, local limits or permit conditions
- NN. Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.
- OO. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.
- PP. Director of Utilities. The person designated by the City of Ennis, Texas to supervise the operations of the POTW, and who is charged with certain duties and responsibilities by this ordinance or his duly authorized representative.
- QQ. 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. Expressed in terms of either mass (pounds per day (ppd) and/or concentration (milligrams per liter (mg/1)
- RR. Toxic Pollutant. One of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provisions of Section 307 (33 U.S.C. 1317) of the Act.
- SS. Treatment Plant Effluent. Any discharge of pollutants from the POTW into the waters of the State.
- TT. 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.
- UU. Wastewater Treatment 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 Abbreviation

The following abbreviations shall have the designated meanings:

BOD - Biochemical Oxygen Demand



CFR	-	Code of Federal Regulations
COD	-	Chemical Oxygen Demand
EPA	-	United States Environmental Protecting Agency
ERG	-	Enforcement Response Guide
ERP	-	Enforcement Response Plan
GPD	-	Gallons Per Day
1	-	Liter
mg/l	-	Milligrams Per Liter
NPDES	-	National Pollutant Discharge Elimination System
O&M	-	Operation and Maintenance
pH	-	Hydrogens Ions
POTW	-	Publicly Owned Treatment Works
RCRA	-	Resource Conservation and Recovery Act
SIC	-	Standard Industrial Classifications
SWDA	-	Solids 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 Establishment of Local Limits**

The City of Ennis, Texas’s authority to establish local limits as Pretreatment Standards is established in 40 CFR § 403.5 (c).

### **2.2 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 requirement. 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 flash point of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.1.
- B. Any wastewater having a pH less than 5.0 or more than 11.0, or otherwise causing corrosive structural damage to the POTW or equipment or endangering City personnel.
- C. Solid or viscous substances in amounts which will cause obstructions of the flow in the POTW resulting in interference, but in no case solids greater than 0.7874 inches or two (2) centimeters 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 140 degrees P (60 Degree C) or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C).
- F. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- G. Any pollutant which results 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 of Ennis, Texas in accordance with Section 3.5 of this ordinance.
- 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 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 of Ennis, Texas'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 waste 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, condensation, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the Director of Utilities.
- M. Any sludge, screenings, or other residues from the pretreatment of industrial wastes.
- N. Any medical wasters, 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 either an acute or chronic toxicity test as defined by the City of Ennis's wastewater treatment plant's NPDES discharge permit.
- P. Any wastewater 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 an animal or vegetable origin is limited to 100 mg/l.

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.

### 2.3 Federal Categorical Pretreatment Standards

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

### 2.4 State Requirements

State requirements and limitations on discharges shall apply in any case, to include the Water Quality Standards for receiving streams, where they are more stringent than Federal or local requirements and limitations or those in this ordinance.

### 2.5 Specific Pollutant Limitations

No person shall discharge wastewater containing in excess of the following limitations, stated in milligrams per liter, or as required by State or Federal Authority to meet the set POTW Treatment Plant effluent limitations. All pollutants are subject to City of Ennis, Texas permit control.

pH	Lower limit 5
pH	Upper limit 11.0
Oil and Grease (from) (animal and vegetable sources)	100

Oil and Grease (from) (petroleum based oil and grease)	10
Arsenic	0.428
Cadmium	0.55
Chromium	4.95
Copper	1.17
Cyanide	0.20
Lead	1.6
Mercury	0.010
Nickel	4.20
Silver	0.08
Zinc	1.74

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. Upon promulgation of the Federal Pretreatment Standards for a particular industrial subcategory, the Pretreatment Standards, if more stringent than limitations imposed by this ordinance, shall become applicable. The Control Authority shall notify affected users of the applicable Pretreatment Standards and any applicable reporting requirements. The City of Ennis, Texas uses a city sewer use ordinance program to adopt all new limits. Notice of changes and opportunity for public comment on local limits development will be made available through City Council agendas and meetings.

## 2.6 City's Right of Revision

The City of Ennis, Texas 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 specific prohibitions Section 2.1 of this ordinance.

## 2.7 Special Agreement

The City of Ennis, Texas 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 individual 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 the 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.

## 2.8 Combined Wastestream Formula (CWF)

When wastewater subject to a Categorical Standard is mixed with wastewater not regulated by the same Standard, the City of Ennis, Texas shall impose an alternate limit in accordance with 40 CFR § 403.6 (e).

## 2.9 Dilution

No industrial user shall ever increase the usage 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 requirement, 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 of Ennis, Texas shall be provided, operated, and maintained by the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City of Ennis, Texas for review, and shall be acceptable to the City of Ennis, Texas 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 Ennis, Texas 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 periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the industrial user's compliance with the requirements of this ordinance.

- B. Each person discharging into the POTW greater than 10 percent of the average daily flow in the POTW, shall install and maintain, on his property and at his expense, a suitable storage and flow control facility to insure equalization of flow over a 24 hour period. The facility shall have a capacity for at least 20 percent of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the Director of Utilities. 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 interception units shall be of 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 (at least twice per year), 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. At no time shall two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, be more than 5 percent nor any single reading over 10 percent of the Lower Explosive Limit (LEL) of the meter.

### 3.3 Accidental Discharge/Slug Control Plans

The Director of Utilities may require any industrial user to develop and implement an accidental discharge/slug control plan. At least once every two years the Director of Utilities shall evaluate whether each significant industrial user needs such a 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 for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in Section 2.1 of this ordinance.
- D. 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 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 of Ennis, Texas. 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 of Ennis, Texas. 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 other sections of this ordinance.
- C. Fees for dumping septage will be established as part of the industrial user fee system as authorized in Section 15.

### 3.5 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 other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in Section 10.1, below.

## **SECTION 4 - WASTEWATER DISCHARGE PERMIT ELIGIBILITY**

### 4.1 Wastewater Survey

When requested by the Director of Utilities all industrial users must submit information on the nature and characteristics of 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 the provisions of this ordinance.

### 4.2 Wastewater Discharge Permit Requirement

- A. It shall be unlawful for any significant industrial user to discharge wastewater into the City of Ennis, Texas'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 10.1. 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 purpose of this ordinance.

#### 4.3 Wastewater Discharge Permitting Existing Connections

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 90 days after said date, apply to the City of Ennis, Texas for a wastewater discharge permit in accordance with Section 4.6 below, and shall not cause or allow discharges to the POTW to continue 120 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 wastes into the POTW must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least 45 days prior to the date upon which any discharge will begin.

#### 4.5 Wastewater Discharge Permitting Extrajurisdictional Industrial Users

- A. Any existing significant industrial user located beyond the city limits of the City of Ennis, Texas shall submit a wastewater discharge application, in accordance with Section 4.6 below, within 90 days of the effective date of this ordinance. New significant industrial users located beyond the city limits of Ennis, Texas shall submit such application to the Director of Utilities 45 days prior to any proposed discharge to 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, 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 to 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 requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on 40 CFR 403.12(e)(2).
- H. 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 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 10 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 PERMIT**

#### 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 begin and 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 damage to the POTW.

A. Wastewater discharge permits shall contain the following conditions:

1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed 5 years.
2. A statement that the wastewater discharge permit is non-transferable without prior notification to the City of Ennis, Texas and approval, and provisions for furnishing 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, sample location, sample 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, and local law.

B. Wastewater discharge permits may contain, but 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 discharge 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 permitted 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 Appeals

Any person, including the industrial user, may petition the City of Ennis, Texas to reconsider the terms of a wastewater discharge permit within 10 days of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and alternative condition, if any, it seeks to place in the wastewater discharge permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. If the City of Ennis, Texas fails to act within 15 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 action for purposes of judicial review.
- E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Municipal Court, City of Ennis, Texas.

### 5.4 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 alterations 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 of Ennis, Texas's POTW, the City of Ennis Texas personnel, or the receiving waters.
- E. Violation of any terms or conditions of the wastewater discharge permit.
- F. Misrepresentations or failure to full 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.

#### 5.5 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 10 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. Acknowledge 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.

#### 5.6 Wastewater Discharge Permit Revocation Wastewater discharge permits may be revoked for the following reasons:

- A. Failure to notify the City of Ennis, Texas of significant changes to the wastewater prior to changed discharge.

- B. Failure to provide prior notification to the City of Ennis, Texas of changed condition pursuant to Section 6.5 of this ordinance.
- 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 of Ennis, Texas personnel timely access to the facility premises to 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 this 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.

#### 5.7 Wastewater Discharge Reissuance

A significant industrial user shall apply for a wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application in accordance Section 4.6 of this ordinance a minimum of 60 days prior to the expiration of the industrial user's existing wastewater discharge permit.

#### 5.8 Municipal Wastewater Discharge Permits

In the event another municipality contributes all or a portion of its wastewater to the POTW, the POTW may require such municipality to apply for and obtain a municipal wastewater discharge permit.

- A. A municipal wastewater discharge permit application shall include:
  - 1. A description of the quality and volume of the wastewater at the point where it enters the POTW.

2. An inventory of all industrial users discharging to the municipality.
  3. Such other information as may be appropriate and required by the Director of Utilities.
- B. A municipal wastewater discharge permit shall contain the following conditions:
1. A requirement for the municipal user to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are as least as stringent as those set out in Section 2.4.
  2. A requirement for the municipal user to submit a revised industrial user inventory on at least an annual basis.
  3. A requirement for the municipal user to (a) conduct pretreatment implementation activities including industrial user permit issuance, inspection and sampling and enforcement, or (b) authorize the POTW to take or conduct such activities on its own behalf.
  4. A requirement for the municipal user to provide the City of Ennis, Texas with access to all information that the municipal user obtains as part of its pretreatment.
  5. Limits on the nature, quality, and volume of the municipal user's wastewater at the point where it discharges to the POTW.
  6. Requirements for monitoring the municipal's user's discharge.
- C. Violation of the terms and conditions of the municipal user's wastewater discharge permit subjects the municipal user to the sanctions set out in Section 10 through 12 of this ordinance.

## **SECTION 6. DISCHARGES FROM NON-SIGNIFICANT INDUSTRIAL USERS**

### **6.1. Notification**

The City will notify a non-significant industrial user, which when in the opinion of the City, the regulation of such is necessary for the protection of the POTW. Within sixty (60) days of receipt of the City's notification, the non-significant industrial user shall submit a completed application for a Non-Significant Industrial Wastewater Discharge Permit.

### **6.2. Permit Contents**

The City shall issue a Non-Significant Industrial Wastewater Discharge Permit for non-significant users notified under Section 6.1. A permit shall include such conditions as are deemed reasonably necessary by the City, including but not limited to self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements may include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.

#### 6.4. Annual Compliance Certification

Each non-significant industrial user that has been notified by the City in accordance with Section 6.1 of this regulation shall submit an annual compliance certification, (unless the user's permit stipulates other reporting requirements), to be completed by an authorized representative of the facility and submitted to JEA by January 15 of each calendar year. The compliance certification may consist of the following:

##### A. Annual Report:

The annual report shall contain the following information for the preceding calendar year:

- (1) Type and description of processes and any applicable wastewater treatment employed at the facility.
- (2) Estimate of wastewater discharged expressed as average daily flow.
- (3) Description of any major changes in equipment or changes in operation since the submittal of the last annual report.
- (4) All wastewater sampling results, if required.
- (5) Any other information deemed necessary by the City.

##### B. The following certification statement:

"On behalf of [Name of facility], I certify that, as of the date of this certification, this facility is in compliance with the requirements of The City of Ennis, Texas's Industrial Pretreatment Regulation except as specifically noted below."

#### 6.5. Permit Renewal

Duration of the Non-Significant Industrial Wastewater Discharge Permit shall be issued for a specified time period not to exceed five (5) years from the effective date of the permit. A permitted non-significant industrial user with an expiring wastewater discharge permit shall apply for a discharge permit by submitting a complete permit application, as provided by the City, a minimum of one hundred twenty (120) days prior to the expiration of the user's existing wastewater discharge permit. The terms and conditions of a permit are automatically continued past its expiration date and remain fully enforceable pending issuance of a new permit if; (a) The permittee has submitted a timely and sufficient application for renewal; or (b) the City is unable, through no fault of the permittee, to issue a new permit before the expiration date of the previous permit; and (c) The permittee is not in significant noncompliance with the terms and conditions of the previous permit on its expiration date.

## **SECTION 7 - REPORTING REQUIREMENTS**

### 7.1 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 of Ennis, Texas 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 of Ennis, Texas 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. Permits. A list of all environmental permits held by the facility.
  3. Description of Operation. A brief description of the nature, average rate of production, and standard industrial classification of the operations 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 Measurements. 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. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
    - c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from regulated process if no pretreatment exists. If other wastewaters are mixed with regulated wastewater prior to pretreatment the user should measure flows and concentrations necessary to allow the use of combined wastestream formula in



40 CFR § 403.6(e) this adjusted limit along with supporting data shall be submitted to the City of Ennis, Texas.

- d. 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 Ennis, Texas) 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 7.10 of this ordinance.
  - e. The Director of Utilities 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 POTW.
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 constant basis, and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required 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 pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for 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 of this ordinance.

## 7.2 Compliance Schedule Progress Report.

The following conditions shall apply to the schedule required by 6.1(B)(7) of this ordinance. The schedule shall contain progress increments in the form of dates for 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 reasons for any delay, (and, 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.

### 7.3 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 of Ennis, Texas a report containing the information described in section 6.1(B)(4-6) of this ordinance. For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the industrial'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 of this ordinance.

### 7.4 Periodic Compliance Reports.

- A. Any significant industrial user subject to a pretreatment standard shall, at a frequency determined by the Director of Utilities but in no case less than twice per year (in June and December or as set by the Director of Utilities for compliance) 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 of this ordinance.
- 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 7.11 of this ordinance the results of this monitoring shall be included in the report.

### 7.5 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 operation or system which might alter the nature, quality or volume of its wastewater at least 10 days before the change.

- A. The Director of Utilities may require the industrial 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 4.6 of this ordinance.
- B. The Director of Utilities may issue a wastewater discharge permit under Section 4.6 of this ordinance or modify an existing wastewater discharge permit under Section 5.4 of this ordinance.
- 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 previously unreported pollutants shall be deemed significant.

#### 7.6 Reports of Potential Problems

- A. In the case of any discharge including, but not limited to, accidental discharges, discharges of non-routine, episodic nature, a noncustomary 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 Ennis, Texas of the incident. This notification shall include the location of discharge, the 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 expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification' relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this ordinance.
- C. Failure to notify the City of Ennis, Texas 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 cause or suffer such a discharge to occur, are advised of the emergency notification procedure.

#### 7.7 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 of Ennis, Texas as the Director Of Utilities may require.

#### 7.8 Notice if Violation/Repeat Sampling and 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.

#### 7.9 Notification of the Discharge of Hazardous Waste

- A. Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 10 kilograms of such waste per calendar month to the POTW, the notification shall also contain the, following information to the extent such information is known and readily available to the industrial user; an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during the calendar month, and an estimation of the mass and constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this paragraph need to be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under Section 7.5 of this ordinance. The notification requirement in this section does not apply to pollutants already reported under the self monitoring requirements of Section 7.1, 7.3, and 7.4 of this ordinance.
- B. Discharges are exempt from the requirements of paragraph (A) of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous waste as specified in 40 CFR 261.30(d) and 261.33(e), requires a one time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of new regulations under Section 3001 of the RCRA, identifying additional characteristics of hazardous waste or listing any additional substance

as a hazardous waste, the industrial user must notify the POTW, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

- D. In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued there under, or any applicable Federal or State law.

#### 7.10 Analytical Requirements

All pollutant analysis, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Director of Utilities or other parties approved by EPA.

#### 7.11 Sample Collection

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

- A. Except as indicated in Section B below, the industrial user must collect wastewater samples using 24 hour flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director of Utilities. Where time-proportional composite sampling or grab sampling is authorized, by The City of Ennis, Texas, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by [the City], as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

- B. Samples for oil and grease, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.
- C. All samples regardless of type (Composite sample or Grab sample) must be caught after treatment but prior to combination with any non-process or domestic wastestreams.
- D. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 6.1 and 6.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data does not exist; for facilities for which historical sampling data are available, Director of Utilities may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

#### 7.12 Determination of Noncompliance

The Director of Utilities may be use a grab sample(s) to determine non-compliance with pretreatment standards.

#### 7.13 Timing

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

#### 7.14 Record Keeping

Industrial users shall retain, and make available for inspection and copying, all records and information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Section 2.4 C. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall automatically be 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 8 - COMPLIANCE MONITORING**

#### 8.1 Inspection and Sampling

The City of Ennis, Texas personnel 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 and whether the industrial user is complying with all requirements thereof. Industrial users shall allow the Director of Utilities or his

representatives ready access to all parts of the premises for the purpose 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 of Ennis, Texas, State, and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.
- B. The City of Ennis, Texas, State, and EPA shall have the right to set up on the industrial user's property, or require installation of, devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. The City of Ennis, Texas 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 born by the industrial use.
- E. Unreasonable delays in allowing the City of Ennis, Texas personnel access to the industrial user's premises shall be a violation of this ordinance.
- F. A minimum of two (2), City of Ennis, Texas employees or designated representatives, shall inspect, and collect representative samples, of any user to ascertain whether the purpose of this Ordinance is being met and all requirements are being complied with. The minimum inspection frequency of all users issued a wastewater discharge permit is one (1) each calendar year. The minimum frequency of sample collection of all users issued a wastewater discharge permit is two (2), (one each six months), each calendar year. Inspections and samplings may or may not be in conjunction with each other.

## 8.2 Search Warrants

If the Director of Utilities has been refused access to a building, structure or property or any part thereof, and if the Director of Utilities has demonstrated probable cause to believe there may be a violation of this ordinance or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City of Ennis, Texas 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 Director of Utilities (upon probable cause), the Municipal Court Judge of the City of Ennis, Texas 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 of Ennis, Texas. In the event of an emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

## **SECTION 9 - CONFIDENTIAL INFORMATION**

Information and data on an industrial user obtained from surveys, wastewater discharge permit wastewater discharge permits, and monitoring programs, the City of Ennis, Texas inspection and sampling 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 of Ennis, Texas, 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 governmental agencies for use 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 10 - PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE**

The City of Ennis, Texas shall publish annually, in the 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 are 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 numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) ( daily maximum, long term average, instantaneous limit, or narrative standard)that the City of Ennis, Texas believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of the City of Ennis, Texas 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 of Ennis, Texas'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 violations which the City of Ennis, Texas determines will adversely affect the operation or implementation of the local pretreatment program.

## **SECTION 11 - ADMINISTRATIVE ENFORCEMENT REMEDIES**

### **11.1 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 hereunder, or any other pretreatment requirement, the Director of Utilities or his agent may serve upon said user a Written Notice of Violation. Within 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 violation occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the City of Ennis, Texas to take action, including emergency actions or any other any enforcement action, without first issuing a Notice of Violation.

### **11.2 Consent Orders**

The Director of Utilities is hereby empowered to enter into Consent Orders, assurance 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 specified by the order. Consent Orders shall have the force and effect as the administrative orders issued pursuant to Section 10.4 and 10.5 below and shall be judicially enforceable.

### **11.3 Show Cause Hearing**

The Director of Utilities may order any user which causes or contributes to violations of this ordinance, wastewater discharge permit, or orders issued hereunder, or any pretreatment standard or requirement, to appear before the Director of Utilities and show cause why 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 should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 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 rather action against the user.

#### 11.4 Compliance Order

When the Director of Utilities finds that a user has violated or continues to violate the ordinance, wastewater discharge permit or orders issued hereunder, or any other pretreatment standard or requirement, the Director of Utilities may issue an order to the user responsible for the discharge directing that the user come into compliance within 30 days. If the user does not come into compliance within 30 days, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and property operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amounts of pollutants discharged to the POTW. 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.

#### 11.5 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 directing it to cease and desist all such violations and directing the user to:

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

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

#### 11.6 Administrative Fines

- A. When Director of Utilities finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, Director of Utilities may fine such User in an amount not to exceed Twenty Seven Thousand Five Hundred Dollars (\$27,500.00). Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- B. Assessments may be added to the user's next scheduled sewer service charge and the Director of Utilities shall have such other collection remedies as may be available for other service charges and fees.

- C. Users desiring to dispute such fines must file a written request for the Director of Utilities to reconsider the fine along with full payment of the fine amount within 30 days of being notified of the fine. Where a request has merit, the Director of Utilities shall convene a hearing on the matter within 10 days of receiving the request from the industrial user. In the event the user's appeal is successful, the payment shall be returned to the industrial user. The City of Ennis, Texas 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 prerequisite for taking any other action against the user.

#### 11.7 Emergency Suspensions

The Director of Utilities may immediately suspend user's discharge (after informal notice to the user) whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director 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 and 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, receiving stream, or endangerment to any individual. The Director of Utilities shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City of Ennis, Texas that the period of endangerment has passed, unless the termination proceedings set forth in Section 11.8 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 detail 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 Section 11.3 and 11.8 of this ordinance.

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

#### 11.8 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 permit, 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 to reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.
- E. Violation of the pretreatment standards in Section 2 of this ordinance.

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

## **SECTION 12 - JUDICIAL ENFORCEMENT REMEDIES**

### **12.1 Injunction 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 Ellis County District Court through the City Attorney, City of Ennis, Texas 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 requirements imposed by this on activities of the industrial user. Such other action as appropriate for legal and/or equitable relief may also be sought by the city of Ennis, Texas. A petition for infective relief need not be filed as a prerequisite to taking any other action against a user.

### **12.2 Civil Penalties**

- A. Any user which violated or continues to violate this ordinance, and 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 Two Thousand dollars (2,000.00) per violation per day. In the case of a monthly or 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 City 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, of Ennis, Texas.
- 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.

### 12.3 Criminal Prosecution

- A. Any user that willfully or negligently violates any provision of this ordinance, any orders or wastewater discharge issued hereunder, or any other pretreatment shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed Two Thousand dollars (2,000.00) 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 not to exceed Two Thousand dollars (2,000.00) per violation per day. 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 pursuant to this ordinance, wastewater discharge or order, or who falsifies, tampers with or renders inaccurate any monitoring device or method under this ordinance shall, upon conviction, be punished by a fine not to exceed Two Thousand dollars (2,000.00) per violation per day.
- D. In the event of a second conviction, a user shall be punished by a fine not to exceed Two Thousand dollars (2,000.00) per violation per day.

### 12.4 Remedies Nonexclusive

The provisions of this ordinance are not exclusive remedies, the City of Ennis, Texas 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 of Ennis, Texas's enforcement response plan. However, the city of Ennis, Texas reserves the right to take other action against any noncompliant user. These actions may be taken concurrently.

## **SECTION 13 - SUPPLEMENTAL ENFORCEMENT ACTION**

### 13.1 Performance Bonds.

The Director of Utilities may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this ordinance, any order, or a previous wastewater discharge permit issued hereunder, unless such user first files a satisfactory bond, payable to the City of Ennis, Texas in a sum not to exceed a value determined by the Director of Utilities to be necessary to achieve consistent compliance.

### 13.2 Liability Insurance

The Director of Utilities may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this ordinance, any order, or a

previous wastewater discharge permit issued hereunder, unless the user first submits proof that it has obtained financial assurance sufficient to restore or repair damage to the POTW caused its discharge. Supply Severance when a user has violated or continues to violate the of this ordinance, orders, or wastewater permit issued hereunder, waste 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.

### 13.3 Public Nuisance

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 of Ennis, Texas code governing such nuisance, including reimbursing the City of Ennis, Texas for any costs incurred in removing, abating or remedying said nuisance.

### 13.4 Informant Rewards

The Director of Utilities is authorized to pay up to One Thousand Dollars for information leading to the discovery of noncompliance by a user. In the event that the information provided results in an administrative fine or civil penalty levied against the user, the Director of Utilities is authorized to disperse up to five (5) percent of the collected fine or penalty to the informant. However, a single reward payment may not exceed Two Hundred Dollars. The provisions of this Section shall not apply to City of Ennis, Texas employees.

## **SECTION 14 - AFFIRMATIVE DEFENSE TO DISCHARGE VIOLATIONS**

### 14.1 Act of God **[THIS SECTION REVISED MARCH 1, 2004]**

- A. For the purpose of this section, "Act of God" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standard because of factors beyond the reasonable control of the industrial user. An Act of God 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. If a person can establish that an event that would otherwise be a violation of a statute within the City's jurisdiction or a rule adopted or an order or a permit issued under such a statute was caused solely by an Act of God, war, strike, riot, or other catastrophe, the event is not a violation of that statute, rule, order, or permit. An Act of God must be documented in the following manner:
  - 1. An Act of God occurred and the industrial user can identify the cause(s):
  - 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 Act of God, if this information is provided orally, a written submission must be provided within five (5) days:
  - a. A description of the indirect discharge and cause of noncompliance.
  - b. The period of noncompliance, including exact dates and times or, if not corrected the anticipated time the noncompliance is expected to continue.
  - c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of noncompliance.
- C. In any enforcement proceeding, the industrial user seeking to establish the occurrence of an Act of God shall have the burden of proof.
- D. Industrial users will have the opportunity for a judicial determination on any claim of an Act of God only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- E. 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.

#### 14.2 General/Specific Prohibitions

An industrial user shall have the 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, along 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 of Ennis, Texas was regularly in compliance with its NPDES permit, in the case of interference, was in compliance with sludge use and disposal requirements.

#### 14.3 Bypass

##### A. Definitions

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 cause 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 paragraph C and D of this section.
- C. Bypass Advance Notice
  - 1. If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the POTW at least 10 days before the date of the bypass if possible.
  - 2. An industrial user shall submit oral notice of an anticipated 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 the 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. Exemptions for Enforcement Action
  - 1. Bypass is prohibited, and the POTW may take enforcement action against an industrial 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 waste, 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 preventative maintenance; and
    - c. The industrial user submitted notices as required under paragraph C 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 15 - SURCHARGE COSTS

### 15.1 Monitoring for Surcharge

Discharge requirements and surcharges. Users generating abnormal industrial waste may discharge into the POTW provided:

- A. The waste will not endanger or be harmful to the operating system of the POTW;
- B. The waste will not cause damage to the collection system;
- C. The waste will not impair the treatment process;
- D. The user discharging the waste pays a monthly surcharge to the City of Ennis, Texas in addition to the usual monthly service charge.

### 15.2 Computation of Surcharge

Abnormal industrial wastes having a BOD concentration greater than 250 mg/l, and/or a TSS concentration greater than 200 mg/l, and/or a COD concentration greater than 750 mg/l shall be assessed a surcharge. Computation of surcharge shall be based on the following formulae:

$$SBOD = V \times 8.34 [A(BOD - 250)]$$

$$STSS = V \times 8.34 [B(TSS - 200)]$$

$$SCOD = V \times 8.34 [C(COD - 750)]$$

s = surcharge, in dollars, that will appear on the customer's monthly bill;

V - Water consumption in millions of gallons during the billing period or the wastewater average in millions of gallons;

A - Unit charge in dollars per pound of excess BOD;

B - unit charge in dollars per pound in excess of TSS;

C - Unit charge in dollars per pound COD;

8.34 - pounds per million gallons of water;

BOD - concentration expressed in mg/l;

TSS - concentration expressed in mg/l;

COD - concentration expressed in mg/l.

If the concentration of BOD, TSS or COD is less than the excess concentration for that category, then there shall be no surcharge for that category nor shall there be credit

given to the total surcharge if the strength or concentration of all three categories is less than the normal. Surcharges payable under this paragraph shall become due monthly after the effective date of this ordinance.

### 15.3 Data Review

All flow rates, BOD, TSS, and COD values used in determination of the surcharge of industrial waste customers shall be reviewed on an annual basis and shall be adjusted to reflect any increase or decrease in wastewater treatment costs based on the previous years experience. However, if there is a major change in the operation to cause changes in value, the values may be increased or decreased during the calendar year based on, a study of changes or actual measurements.

### 15.4 Removal Credits

Any industry wishing to apply for removal credit, as described in 40 CFR 403, may do so provided they assume responsibility for all costs, including those incurred by the City of Ennis, Texas, and provided they state this responsibility to the Director of Utilities in writing. Any removal credit granted shall be in accordance with the procedure set forth in 40 CFR 403.

## **SECTION 16 - MISCELLANEOUS PROVISIONS**

### 16.1 Pretreatment Charges and Fees

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

- A. Fees for wastewater discharge permit application 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 the industrial user.
- C. Fees for reviewing and responding to accidental discharge procedures and construction.
- D. Fees for filing appeals.
- E. Other fees as the City of Ennis, Texas 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 of Ennis, Texas.

### 16.2 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.

16.3 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 17 - EFFECTIVE DATE**

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

INTRODUCED the \_\_\_\_\_ day of \_\_\_\_\_  
FIRST READING the \_\_\_\_\_ day of \_\_\_\_\_  
SECOND READING the \_\_\_\_\_ day of \_\_\_\_\_  
PASSED this \_\_\_\_\_ day of \_\_\_\_\_

AYES: \_\_\_\_\_ ABSENT: \_\_\_\_\_  
NAYS: \_\_\_\_\_ NOT VOTING: \_\_\_\_\_

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

\_\_\_\_\_  
MAYOR, City of Ennis, Texas

ATTESTED:

\_\_\_\_\_  
City Secretary

PUBLISHED the \_\_\_\_\_.