

ORDINANCE NO. 8140

AN ORDINANCE AMENDING CHAPTER 41 OF THE CODE OF CIVIL AND CRIMINAL ORDINANCES OF THE CITY OF IRVING, TEXAS, BY REPEALING THE EXISTING CHAPTER 41 AND REPLACING IT WITH A NEW CHAPTER; BY PROVIDING DEFINITIONS; REQUIRING PERMITS; PROVIDING PERMIT PROCEDURES AND FEES; PROVIDING FOR PERMIT INSPECTIONS; PROHIBITING SHUTOFF OF CITY WATER; PROVIDING FOR WATER SERVICE FROM FIRE HYDRANTS; PROVIDING FOR SALE OF WATER AT THE CITY EQUIPMENT YARD; PROVIDING CONSTRUCTION STANDARDS; PROVIDING FOR DISCONNECTION OF IMPROPERLY CONTRUCTED WORK; PROVIDING FOR WATER METERS; PROVIDING FEES FOR WATER AND SEWER TAPS; PROVIDING CONTROL OF ACCESS TO WATER SYSTEMS; PROVIDING EMERGENCY AUTHORITY; PROVIDING FOR TEMPORARY DISCONTINUANCE; PROVIDING AUTHORITY TO DISCONTINUE WATER; PROHIBITING DAMAGE TO THE WATER SYSTEM; PROVIDING CROSS-CONNECTION CONTROL REGULATIONS INCLUDING PURPOSES AND ADMINISTRATION; REQUIRING INSTALLATION, REQUIRING BACKFLOW PROTECTION; PROVIDING FOR BACKFLOW PREVENTION APPROVAL AND TESTING; PROVIDING FOR AN INSPECTION PROGRAM; REQUIRING SANITARY SEWER CONNECTIONS; PROHIBITING PIT TOILETS; PROVIDING FOR COMPLIANCE IN NEWLY ANNEXED TERRITORY; REQUIRING SEPTIC TANKS IN SOME CASES; REGULATING SEWER USE; PROVIDING FOR ADMISSIBLE DISCHARGES; PROHIBITING INADMISSIBLE DISCHARGES; PROVIDING ALTERNATIVES FOR HANDLING INADMISSIBLE DISCHARGES; PROVIDING FOR PROTECTION OF THE SEWER SYSTEM; REQUIRING DEVICES AND TESTING FROM SOME INDUSTRY; PROVIDING NATIONAL CATEGORICAL PRETREATMENT STANDARDS; PROVIDING FOR PRETREATMENT OF WASTEWATER; PROVIDING FOR WASTEWATER DISCHARGE PERMIT APPLICATIONS; PROVIDING A PROCESS FOR ISSUING WASTEWATER DISCHARGE PERMITS; PROVIDING REPORTING REQUIREMENTS; REQUIRING THAT CERTAIN INFORMATION WILL BE KEPT CONFIDENTIAL; PROVIDING FOR PUBLICATION OF NAMES OF USERS IN SIGNIFICANT NONCOMPLIANCE; PROVIDING FOR PASSING COSTS TO THE INDUSTRY; REGULATING PRIVATE WASTE OPERATORS; REQUIRING LIQUID WASTEWATER PERMITS; PROVIDING FEES AND REQUIRING DISPLAY AND UPDATING OF PERMITS; REGULATING LIQUID WASTE VEHICLES; PROVIDING RESPONSIBILITIES FOR LIQUID WASTE TRANSPORTER; PROHIBITING ACCUMULATION OF LIQUID WASTE; REGULATING DISPOSAL OF LIQUID WASTE; PROVIDING RESPONSIBILITIES FOR LIQUID WASTE GENERATORS; PROVIDING RESPONSIBILITIES OF LIQUID WASTE DISPOSAL SITE OPERATORS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR DENIAL, REVOCATION, AND EXPIRATION OF PERMITS; PROVIDING FOR APPEALS OF PERMIT REVOCATION AND SUSPENSION; PROVIDING FOR DISPOSAL OF WASTE ON PRIVATE PROPERTY; ESTABLISHING A MUNICIPAL DRAINAGE UTILITY SYSTEM; PROVIDING A SCHEDULE OF

DRAINAGE CHARGES; PROVIDING MUNICIPAL STORM WATER DRAINAGE REGULATIONS INCLUDING PURPOSES, ADMINISTRATION, ABBREVIATIONS, GENERAL PROHIBITIONS, SPECIFIC PROHIBITIONS AND REQUIREMENTS; PROVIDING FOR RELEASE REPORTING AND CLEANUP; REGULATING STORM WATER DISCHARGED FROM CONSTRUCTION ACTIVITIES AND INDUSTRIAL ACTIVITIES; PROVIDING FOR COMPLIANCE MONITORING; PROHIBITING ACTS ADVERSELY AFFECTING WATER QUALITY; PROVIDING FOR PLANS FOR CONTROLLING ACCIDENTAL SPILLS AND HAZARDOUS SUBSTANCES; PROVIDING RULES AND REGULATIONS; PROVIDING ADMINISTRATIVE ENFORCEMENT REMEDIES; PROVIDING CRIMINAL PENALTIES; PROVIDING THOSE REMEDIES ARE NOT EXCLUSIVE; PROVIDING FOR EMERGENCY SUSPENSIONS; PROVIDING AUTHORITY TO DISCONNECT SERVICE; PROVIDING FOR SEVERABILITY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IRVING, TEXAS:

SECTION 1. That Chapter 41 of the Code of Civil and Criminal Ordinances of the City of Irving, Texas, is amended to read as follows:

Chapter 41 WATER AND SEWER SYSTEMS*

ARTICLE I. IN GENERAL

Sec. 41-1. Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations have the meanings given in this section. When not inconsistent with the context, words used in the present tense include the future; words used in plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory; "may" is permissive.

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

Agricultural stormwater runoff means any stormwater runoff from orchards, cultivated crops, pastures, range lands, and other nonpoint source agricultural activities, but not discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24.

Air gap means a physical separation between the free flowing discharge end of a potable water supply pipeline and an open or non-pressure receiving vessel.

Approved means accepted as satisfactory under the terms of this chapter and given formal and official sanction by the city.

Approved air gap means an air gap that is at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel in no case less than 1 inch (2.54 cm.).

Approved backflow prevention assembly means an assembly that has been manufactured in full conformance with the standards established by the latest edition of the American Water Works Association entitled, AWWA/ANSI C510 Standard for Double Check Valve Backflow Prevention Assemblies; AWWA/ANSI C511 Standard for deduced Pressure Principle Backflow Prevention Assemblies; and has met completely the laboratory and field performance specifications of the Foundation for Cross-Connection Control and Hydraulic research of the University of southern California (USC FCCCHR) established in Specifications of Backflow Prevention Assemblies - Section 10 of the most current edition of the Manual of Cross-Connection Control.

Authorized representative of the user means one (1) of the following:

1. If the user is a corporation, the president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;
2. If the user is a manufacturing, production, or operation facility employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.00), the manager if authority to sign documents has been assigned or delegated to the manager in compliance with corporate procedures;
3. If the user is a partnership or sole proprietorship, a general partner or proprietor, respectively; or
4. If the user is a federal, state, or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

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

Auxiliary water supply means any water supply on or available to the premises other than the city's approved public water supply including water from another providers public potable water supply or any natural source such as a well, spring, river, stream, harbor, etc., or used waters or industrial fluids.

Backflow means the undesirable reversal of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of the potable water supply system from any source or sources.

Backflow preventer means an assembly or other means designed to prevent backflow.

Backpressure means any elevation of pressure in the downstream piping system (by pump, elevation of piping, or steam and/or air pressure) above the supply pressure at the point of consideration which may cause, a reversal of the normal direction of flow.

Backsiphonage means a form of backflow due to a reduction in system pressure which causes a subatmospheric pressure to exist at a site in the water system.

Best management practices (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Biochemical oxygen demand (BOD) means the quantity of oxygen, by weight, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of twenty (20) degrees Celsius.

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

CFR means the Code of Federal Regulations.

Categorical pretreatment standard or *categorical standard* means any regulation containing pollutant discharge limits promulgated by EPA in compliance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405--471.

Chemical means liquid, semi-liquid, or solid that has the potential to cause a violation of established effluent limitations established by a city, state or federal agency and/or pose a possible treat to the collection or treatment system or to maintenance workers and/or be harmful in any way to the environment.

City means the City of Irving, or the City Council of the City of Irving.

City council means the governing body of the city.

City manager means the city manager of the city, or his or her authorized assistant.

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

City's water system includes the source facilities, the distribution system; and all those facilities of the water system under the complete control of the provider up to the point where the consumers

system begins, usually on the discharge side of the water meter. However, if a meter is located on the consumers property, it is a part of the city's system.

Commencement of construction means the disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

Commercial means pertaining to any business, trade, industry, or other activity engaged in for profit.

Commission means the Texas Commission on Environmental Quality or other agencies so designated by the state to have authority to regulate industrial waste disposal and liquid waste transporters

Composite sample means a sample that is collected over time, formed either by continuous sampling or by mixing discrete samples. The sample may be composited either as a time composite sample: composed of discrete sample aliquots collected at constant time intervals providing a representative sample irrespective of stream flow; or as a flow proportional composite sample: collected either as a constant sample volume at time intervals proportional to flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant time interval between the aliquots.

Consumer's system includes those parts of the facilities beyond the termination of the water provider's distribution system which are utilized in conveying potable water to points of use, but does not include metering devices used by the city for billing purposes.

Contamination means an impairment of the quality of the water which may create an actual hazard to the public health through poisoning or through the spread of disease by sewage, industrial fluids, waste, etc.

Control Authority means the Trinity River Authority of Texas (TRA). The Control Authority is the holder the NPDES permit.

Control manhole means a manhole giving access to a building sewer serving an individual user at some point before the building sewer discharge mixes with discharges from other users or other dischargers in the public sewer.

Cross-connection means any unprotected actual or potential connection or structural arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas, water of unknown quality, or substance other than the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices and other temporary or permanent device through which or because of which backflow can or may occur are considered to be cross-connections.

Degree of hazard means the relative dangerousness of either a pollution (non-health) or contamination (health) hazard derived from the evaluation of conditions within a system.

Department means the City of Irving Water Utilities Department for Articles 2-8, and 11. The City of Irving Public Works Department for Articles 9 – 10. Director of Water Utilities is responsible for Articles 2-8 and 11. The Director of Public Works is responsible for Articles 9-10

Discharge includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of into the sanitary or storm sewer or to allow, permit, or suffer any of these acts or commissions and also, means the introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.

Discharger means any person who causes, allows, permits, or is otherwise responsible for a discharge, including, without limitation, any operator of a construction site or industrial facility.

Disposal means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any liquid waste, solid waste, semi-solid waste, grease trap waste, grit trap waste, septage waste, or special waste into or on any land or water.

Disposal site means a site or part of a site that is permitted for the disposal of grease trap waste, grit trap waste, septage waste, liquid waste, solid waste, semi-solid waste, or special waste.

Disposal site operator means any owner, manager, or employee of a disposal site.

Disposer means a person who receives, stores, retains, processes, or disposes of grease trap waste, grit trap waste, septage waste, liquid waste, solid waste, semi-solid waste, or special waste.

Distribution system includes the network of conduits, pumps, storage tanks, and other appurtenances used for the delivery of water from the source to the consumer's system.

Domestic sewage means human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, and institutions, that is free from industrial waste.

Double check valve backflow prevention assembly means an assembly composed of two (2) independently acting, approved check valves, including tightly closing resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks.

Earthwork means the mechanical movement or removal of earth material.

Environmental protection agency or EPA means the United States Environmental Protection Agency or, where appropriate, the regional water management division director of the EPA, or other duly authorized official of that agency.

Erosion means the wearing away of the ground surface as a result of the movement of wind, water, or ice.

Existing source means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in compliance with Section 307 of the Act.

Extremely hazardous substance means any substance listed in the Appendices to 40 CFR Part 355, Emergency Planning and Notification.

Facility means any building, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

Fertilizer means a solid or nonsolid substance or compound that contains an essential plant nutrient element in a form available to plants and is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two (2) or more fertilizers. The term does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no claim of essential plant nutrients is made.

Fill means a deposit of earth material placed by artificial means.

Final stabilization means the status achieved when all soil disturbing activities at a site have been completed, and a uniform perennial vegetative cover with a density of seventy (70) percent of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed.

Fire department means the fire department of the City of Irving, or its duly authorized representative.

Fire protection water means any water, and any substances or materials contained in it, used by any person other than the fire department to control or extinguish a fire.

GPD means gallons per day.

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

Generator means a person who causes, creates, generates, or otherwise produces liquid waste or garbage.

Grab sample means a sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

Grading means any excavating and/or filling.

Grease means fats, waxes, oils, and other similar materials in water or wastewater, as determined by procedures specified in 40_CFR Part 136.

Grease trap means a water-tight receptacle designed and constructed to intercept and remove grease, fatty liquid, semi-liquid, and/or solid wastes from the wastewater generated by commercial operations.

Grease trap waste means greasy, fatty liquid, semi-liquid, and/or solid wastes removed from the wastewater of commercial operations by a grease trap.

Grit trap means a watertight receptacle designed and constructed to intercept and remove petroleum based oil, grease wastes, and solids from the wastewater generated by a commercial vehicle or heavy machinery repair and/or washing facility.

Grit trap waste means petroleum-based oil, grease wastes, and solids removed from the wastewater of commercial vehicle or heavy machinery repair and/or washing facilities.

Harmful quantity means the amount of any substance that will cause pollution of water in the state.

Hazardous household waste (HHW) means any material generated in a household (including single and multiple residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day use recreational areas) by a consumer which, except for the exclusion provided in 40 CFR § 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.

Hazardous substance means any substance listed in Table 302.4 of 40 CFR Part 302.

Hazardous waste means any liquid, semiliquid, or solid waste (or combination of wastes) which, because of its quantity, concentration, physical, chemical, or infectious characteristics, may:

1. Be toxic, corrosive, an irritant, a strong sensitizer, flammable or combustible, explosive, or otherwise capable of causing substantial personal injury or illness; or
2. Pose a substantial hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise improperly managed, and is identified or listed as a hazardous waste as defined by the Texas Solid Waste Disposal Act or the Administrator of the U.S. Environmental Protection Agency (EPA) pursuant to the Federal "Solid Waste Disposal Act," as amended by the "Resource Conservation and Recovery Act of 1976" and as may be amended in the future and any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.

Hazardous waste treatment, disposal, and recovery facility means all contiguous land, structures, other appurtenances, and improvements on the land used for the treatment, disposal, or recovery of hazardous waste.

Health hazard means an actual or potential threat of contamination of a physical or toxic nature to the public potable water system or the consumer's potable water system that would be a danger to health.

Herbicide means a substance or mixture of substances used to destroy a plant or to inhibit plant growth.

Industrial fluid means any fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted in a form or concentration which may constitute a health system pollution or plumbing hazard if introduced into an approved water supply including, but not limited to:

1. Polluted or contaminated used waters;
2. All types of process waters, and "used waters" originating from the public potable water system which may deteriorate in sanitary quality;
3. Chemicals in fluid form;
4. Plating acids and alkalis;
5. Circulated cooling waters connected to an open cooling tower, and/or cooling waters that are chemically or biologically treated or stabilized;
6. Contaminated natural waters such as from wells, springs, streams, rivers, bays, harbors, seas, irrigation canals, or systems, etc.;
7. Oils, gases, glycerin, paraffin, caustic and acid solutions; and
8. Other liquid and gaseous fluids used industrially, for other processes, or for fire fighting purposes.

Industrial user (IU) means any person including, but not limited to, any individual, firm, partnership, association, or any other legal entity who discharges or desires to discharge industrial wastes into the sanitary sewer facilities of the city.

Industrial waste means waste resulting from any process of industry, manufacturing, trade, business, or from the development of any natural resource. This waste may be either separate or mixed with water or normal domestic wastewater. .

Industry means the same as "industrial user."

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

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes operations, or its sludge processes, use or disposal and therefore, is a cause of a violation of the Control Authority'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 any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste

Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Law means any statute, rule, regulation, or ordinance enacted, passed, promulgated, adopted, or otherwise put into effect by the state or federal government, any state or federal agency or political subdivision, or the city. Any cited law includes its successors.

Liquid waste means waterborne solids, liquids, and gaseous substances derived from a grease trap, grit trap, chemical/portable toilet, and/or septic tank, which is described as grease trap waste, grit trap waste, or septage.

Manager means the person conducting, supervising, managing, or representing the activities of a generator, transporter, or disposer.

Manifest system means a system consisting of a four-part trip ticket used to document the generation, transportation, and disposal of liquid waste.

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

MGD means million gallons per day.

Milligrams per liter (MC/L) means parts per million and is a weight-to-volume ratio; the milligram per liter value of a given chemical multiplied by the factor 8.34 is equivalent to pounds of chemical per million gallons of water.

Municipal landfill (or landfill) means an area of land or an excavation in which municipal solid waste is placed for permanent disposal, and which is not a land treatment facility, a surface impoundment, an injection well, or a pile (as these terms are defined in regulations promulgated by the Texas Water Commission).

Municipal separate storm sewer system (MS4) means the system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the city and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.

Municipal solid waste means solid waste resulting from or incidental to municipal, community, commercial, institutional, or recreational activities, and includes garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and other solid waste other than industrial waste.

New source means any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which are to such source if such standards are thereafter promulgated in compliance with that section, provided that:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located;
2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The production of 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. Any construction on a site at which an existing source is located that results in a modification that alters, replaces, or adds to existing process or production equipment. Construction of a new source as defined under this section has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous on-site construction program any placement, assembly or installation of facilities or equipment;
2. Any 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
3. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time.

Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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

Nonpotable water means a water supply which has not been approved for human consumption.

Normal domestic wastewater means wastewater, excluding industrial wastewater, discharged by a person into sanitary sewers and in which the average concentration of total suspended solids or BOD is not more than two hundred fifty (250) mg/l each.

NPDES means National Pollutant Discharge Elimination System permit program of the Environmental Protection Agency, and/or the permit program of the state agency delegated to act on EPA's behalf with an approved pretreatment program (e.g., TPDES or Texas Pollutant Discharge Elimination System).

NPDES general permit for stormwater discharges associated with industrial activity (or industrial general permit) means the industrial general permit issued by EPA on August 27, 1992, and published in Volume 57 of the Federal Register at page 41304 on September 9, 1992, and any subsequent modifications or amendments thereto.

NPDES general permit for stormwater discharges from construction sites (or construction general permit) means the construction general permit issued by EPA on August 27, 1992, and published in

volume 57 of the Federal Register at page 41217 on September 9, 1992, and any subsequent modifications or amendments thereto.

NPDES permit means a permit issued by EPA (or by the state under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Nonpoint source means any source of any discharge of a pollutant that is not a "point source."

Notice of intent (NOI) means the notice of intent that is required by either the industrial general permit or the construction general permit.

Notice of termination (NOT) means the notice of termination that is required by either the industrial general permit or the construction general permit.

Obstruct means to make passage impossible or unreasonably inconvenient or hazardous; or interfere or cause interference with a specific activity in order to prevent the activity from starting, continuing or concluding.

Oil means any kind of oil in any form, including, but not limited to, petroleum, fuel oil, crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste.

Operator means the person or persons who, either individually or taken together, meet the following two (2) criteria:

1. They have operational control over the facility specifications (including the ability to make modifications in specifications); and
2. They have the day-to-day operational control over those activities at the facility necessary to ensure compliance with pollution prevention requirements and any permit conditions.

Overload means the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

Owner means the person who owns a facility or part of a facility.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of TRA's NPDES permit, including an increase in the magnitude or duration of a violation.

Permit means the formal written document issued to a person by the city authorizing collection and disposition of grease trap waste, grit trap waste, and septage. In reference to an industrial user, a permit authorizes discharge of industrial wastewaters with specified pollutant strengths to the city's sanitary sewer collection system.

Permittee means a person granted a permit under this chapter.

Person means an individual, corporation (including a government corporation), organization, government, governmental subdivision or agency, federal agency, state, political subdivision of a state, interstate agency or body, business or business trust, partnership, association, firm, company, joint stock company, commission, or any other legal entity and their legal representatives, agents, and assigns.

Person in control of real property includes but is not limited to owner, tenant, landlord, manager, contractor, subcontractor, supervisor, inspector, agent, construction worker, and employee.

Pesticide means a substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant (as these terms are defined in Section 76.001 of the Texas Agriculture Code).

Petroleum product means a petroleum product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel. (The term does not include naphtha-type jet fuel, kerosene-type jet fuel, or a petroleum product destined for use in chemical manufacturing or feedstock of that manufacturing.)

Petroleum storage tank (PST) means any one (1) or combination of aboveground or underground storage tanks that contain petroleum products and any connecting underground pipes.

pH means the reciprocal of the logarithm (base 10) of the hydrogen ion concentration, expressed in standard pH units.

Plumbing hazard means an internal or plumbing cross-connection in a consumer's potable water system that may be either a pollution or a contamination hazard, including but not limited to cross-connections to toilets, sinks, lavatories, washtrays, and lawn sprinkling systems.

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

Pollutant includes but is not limited to dredged soil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal wastes, agricultural wastes discharged into water, and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor). It does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land, and farm land.

Pollution means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to

humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose or which may adversely and unreasonably affect the aesthetic qualities of such waters for domestic use.

Potable water means any public potable water supply which has been investigated and approved.

Premises or property means real property and includes improvements.

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

Pretreatment facility means any device, equipment, or building which performs pretreatment on wastewater prior to discharging it to the city sewer system.

Pretreatment standards or standard means prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards or prohibited discharges means the absolute prohibitions against the discharge of certain substances.

Properly shredded garbage means garbage that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

Public sewer means pipe or conduit carrying wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the city.

Publicly owned treatment works or POTW means a "treatment works," as defined by Section 212 of the Act (33 U.S.C. § 1292) which is owned by the city or TRA. This phrase includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Qualified personnel means persons who possess the appropriate skills, and ability (as demonstrated by sufficient education, training, experience, and/or, when applicable, any required certification or licensing) to perform a specific activity in a timely and complete manner consistent with the applicable regulatory requirements and generally accepted industry standards for such activity.

RCRA means Resource Conservation and Recovery Act.

Reduced pressure principle backflow prevention assembly means an assembly containing independently acting approved check valves together with a hydraulically operating, mechanically

independent pressure differential relief valve located between the check valves and at the same time below the first check valve.

Registered landscape architect (RLA) means a person who has been duly licensed and registered to practice landscape architecture by the Texas Board of Architectural Examiners.

Registered professional engineer (RPE) means a person who has been duly licensed and registered by the State Board of Registration for Professional Engineers to engage in the practice of engineering in the State of Texas.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the municipal separate storm sewer system (MS4) or the waters, of the United States.

Reportable quantity (RQ) means for any "hazardous substance," the quantity established and listed in Table 302.4 of 40 CFR Part 302; for any "extremely hazardous substance," the quantity established in 40 CFR Part 355 and listed in its Appendix A.

Rubbish means nonputrescible solid waste, excluding ashes, that consist of (1) combustible waste materials, including paper, rags, cartons, wood excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; and (2) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

Sanitary sewer (or sewer) means the system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to the city sewage treatment plant (and to which stormwater, surface water, and groundwater are not intentionally admitted).

Septage means wastes removed from a portable toilet, chemical toilet, or septic tank.

Septic tank waste means any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Service station means any retail establishment engaged in the business of selling fuel for motor vehicles that is dispensed from stationary storage tanks.

Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources. Severe property damage does not mean economic loss caused by delays in production.

Sewage (or sanitary sewage) means the domestic sewage and/or industrial waste that is discharged into the city sanitary sewer system and passes through the sanitary sewer system to the city sewage treatment plant for treatment.

Significant change means a change in flow or production equal to or greater than a decrease or increase of twenty (20) percent.

Significant industrial user (SIU) means

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

Significant quantity of chemicals means a quantity that has a potential to cause adverse effects on the wastewater collection system or treatment plant. This quantity may be determined by the director on a case by case basis.

Site means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

Slug means any discharge of water, wastewater, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds, for any period longer than fifteen (15) minutes, by more than five (5) times the average of its twenty-four-hour concentration or flows during normal operation.

Solid waste means any garbage, rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including, solid, liquid, semisolid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities.

Source includes all components of the facilities utilized in the production, treatment, storage and delivery of water to the distribution system.

Spill means the accidental or intentional loss or unauthorized discharge of grease trap waste, grit trap waste, septage, a chemical (hazardous or non-hazardous), or any other material that has the potential to contaminate any surface or ground water.

Standard industrial classification (SIC) code. means a classification pursuant to the standard industrial classification manual issued by the United States Office of Management and Budget.

State means the State of Texas.

Storm sewer means a public sewer which carries storm and surface waters and drainage and into which domestic wastewater, industrial wastes, or commercial wastes should not be intentionally passed.

Stormwater means rainfall, stormwater runoff, snow melt runoff, surface runoff and drainage, and any other form of precipitation.

Stormwater discharge associated with industrial activity means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing, or raw materials storage areas at an industrial plant which is within one (1) of the categories of facilities listed in 40 CFR § 122.26(b) (14), and which is not excluded from EPA's definition of the same term.

Stormwater pollution prevention plan (SWPPP) means a plan required by either the construction general permit or the industrial general permit and which describes and ensures the implementation of practices that are to be used to reduce the pollutants in stormwater discharges associated with construction or other industrial activity at the facility.

Suspended solids means solids, measured in mg/l, that either float on the surface of or are in suspension in water, wastewater, or other liquids as determined by procedures specified in 40 CFR Part 136.

System hazard means an actual or potential threat of severe danger to the physical properties of the public or the consumer's portable water system or of a pollution or contamination which may have a protracted effect on the quality of the potable water in either system.

Tank means a device designed to contain an accumulation of grease trap waste, grit trap waste, or septage and which is constructed primarily of non-earthen materials (e.g., concrete, steel, plastic) to provide structural support for the containment.

TCEQ means the Texas Commission on Environmental Quality.

Total toxic organics (TTO) means the sum of the masses or concentration of the toxic organic compounds listed in 40 CFR 122 Appendix D, Table II, excluding pesticides, found in an industrial users' discharges at a concentration of greater than 0.01 mg/L. Only those parameters reasonably suspected to be present, to be determined by the director, if any, shall be analyzed for with non-categorical industries. With categorical industries, TTOs will be sampled for as stipulated in the

particular category or those parameters reasonably suspected to be present, to be determined by the director, where not stipulated.

Toxic waste means any liquid, semiliquid, or solid waste material which has the ability to produce injury once it reaches a susceptible site in or on a human or animal body.

Uncontaminated means not containing a harmful quantity of any substance.

TPDES means Texas Pollutant Discharge Elimination System.

TRA means the Trinity River Authority of Texas.

Trap means a device designed to skim, settle or otherwise remove grease, oil, sand, flammable wastes or other undesirable substances from any business that discharges any prohibited substances described in this chapter and is required to pretreat their wastewater discharge.

Trinity river authority (TRA) means an agency of the state and a water conservation district created by chapter 518, acts of the regular session of the fifty-fourth legislature, pursuant to article 16, section 59 of the Texas constitution.

Unit of measurement means the unit of measurement of wastewater delivered to the city's sanitary sewer system; specifically, in this chapter, the standard unit of measurement is one thousand gallons (1,000) gallons U.S. standard liquid measure.

TTO means Total Toxic Organics.

Unpolluted water/wastewater means water containing no free or emulsified grease or oil; no acids nor alkalis; no phenols nor other substance producing taste or odor in receiving waters; no toxic or poisonous substances in suspension, colloidal state, or solution; no noxious or otherwise obnoxious or odorous gases; not more than ten (10) mg/l of suspended solids or BOD; and color not exceeding fifty (50) units as measured by the platinum cobalt method of determination as specified in 40 CFR Part 136

U.S.C. means United States Code.

Used oil (or used motor oil) means any oil that has been refined from crude oil or a synthetic oil that, as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties but that may be suitable for further use and is recyclable in compliance with state and federal law.

Used water means any water supplied by a water provider from a public potable water system to a consumer's water system after it has passed through the service connection and is no longer under the control of the water provider.

Waste means rejected, not utilized, or superfluous substances in liquid, gaseous, or solid form resulting from domestic, agricultural, industrial, or commercial activities.

Waste management operator means any industry that accepts industrial waste from any other industry for the purpose of treating that waste and discharging it to the city's sanitary sewer system.

Waste material means fertilizer, garbage, hazardous waste, hazardous substance, herbicide, industrial waste, oil, pesticide, petroleum product, rubbish, sewage, or any other pollutant.

Wastewater means a combination of the water-carried waste from residences, business buildings, institutions, and/or industrial or commercial establishments.

Wastewater main means a main which carries sewage and to which storm, surface, and ground waters are not normally and/or intentionally admitted.

Wastewater facilities includes all facilities for collection, pumping, treating, and disposing of wastewater and industrial wastes.

Wastewater treatment plant means any city or TRA owned facilities, devices, and structures used for receiving, processing, and treating wastewater, industrial waste, and sludge from sanitary sewers.

Water emergency means a condition of water shortage as described in section 2, A, B, C and D of the Emergency Water Management Plan.

Water in the state (or water) means any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

Water of unknown quality means water from a source which the city does not regularly check for quality and/or over which the city does not have control.

Water service connection means the terminal end of a service connection from the public potable water system, or the downstream end of the water meter.

Water system means all treatment plants, mains, pumps, meters, connections, supply reservoirs, storage tanks, appurtenances and other facilities of the city employed in the purification, transportation and supply of treated and untreated water and the consumer's water system.

Water quality standard means the designation of a body or segment of surface water in the state for desirable uses and the narrative and numerical criteria deemed by the state to be necessary to protect those uses, as specified in Chapter 307 of Title 31 of the Texas Administrative Code.

Waters of the United States means all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; all interstate waters, including interstate wetlands; all other waters the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce; all

impoundments of waters otherwise defined as waters of the United States under this definition; all tributaries of waters identified in this definition; all wetlands adjacent to waters identified in this definition; and any waters within the federal definition of "waters of the United States" at 40 CFR § 122.2; but not including any waste treatment systems, treatment ponds, or lagoons designed to meet the requirements of the Federal Clean Water Act.

Wetland means an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Yard waste means leaves, grass clippings, yard and garden debris, and brush that results from landscaping maintenance and land clearing operations.

ARTICLE II. WATER AND SANITARY SEWER CONNECTION REGULATIONS

Sec. 41-2. Permit required for work performed on water/sanitary sewer system.

It is unlawful for any person other than an authorized employee or agent of the city to perform work on, make connection to, or alter in any manner any portion of either the water or sanitary sewer system of the city without first having obtained a permit issued by the department of public works for that purpose. It is an affirmative defense to this section that the specific change or connection has been approved under a provision of the City of Irving Subdivision Ordinance.

Sec. 41-3. Permit procedure and fees.

To secure a permit, an applicant shall file with the department of public works a signed and completed application for a permit containing the following information:

- A. Construction plans certified by a registered professional engineer, unless in the opinion of the director construction plans are not necessary for the particular work proposed; a receipt evidencing work payment of all applicable charges under this chapter including meter and box charges; and a permit fee paid to the customer service office of the finance department. Permit fee amounts are determined annually by the director and adopted in the budget;
- B. The name and address of the owner of the property for whose benefit the work is to be done;
- C. The name and business address of the person under whose supervision the work will be performed;
- D. The equipment and materials to be used;
- E. The location at which the work is to be performed;
- F. An agreement to indemnify and hold harmless from loss the city and any public utility company and property owner whose property is damaged in performing the work;
- G. A performance and maintenance surety bond in favor of the city to guarantee the completion of the work in compliance with city standards and the satisfactory

operation of the improvement for a period of one (1) year from the date of acceptance of the work by the city;

- H. A certificate of insurance reflecting that the applicant maintains comprehensive general liability coverage meeting requirements set annually by the director.

Sec. 41-4. Issuance of permit; inspection.

- A. When the requirements of this article have been met and the proposed work plans meet city standards for materials and method of construction, the director shall issue a permit to the person responsible for such work.
- B. Upon the completion of the work described in the permit application but prior to covering the work, the holder of a permit shall notify the department of public works of the completion of the work and a representative of the city shall inspect it. If existing improvements of the city or any public utility are disturbed or affected in any manner by the work performed, the permit holder shall further obtain the approval of the work by the appropriate department of the city responsible for such existing improvements or other appropriate public utility agency prior to covering the work and final acceptance of the work by the city.

Sec. 41-5. Shutoff of city water prohibited.

It is unlawful for any person not authorized by the city to shut off, turn on or disconnect any of the city water system or sanitary sewer system. It is an affirmative defense to this section that the customer or his or her authorized agent shut off the water at the Irving water meter for the purpose of making a repair to the customer's water system.

Sec. 41-6. Water service from fire hydrants or other appurtenances to the water system.

- A. It is unlawful for any person to obtain water from the city water system through a fire hydrant or other connection which is not metered in compliance with this section.
- B. In order to secure approval to obtain water from a fire hydrant or other connection to the city water system which is not permanently metered by the city, the person shall make application to the city for a permit which shall be issued only pursuant to the following conditions:
 - 1. Applicant shall state his or her name, address, billing address and telephone number, if an individual. If applicant is a business, applicant shall state its business name, address, billing address and telephone number;
 - 2. No permit for water service shall be processed if the applicant's water bill is in arrears;
 - 3. The applicant shall state whether he, she, or it wishes to rent or purchase a meter from city or provide his, her, or its own meter;
 - 4. Customer provided meter:
 - a. If an applicant desires to provide his, her, or its own meter, the applicant shall present the meter with a serial number stamped on the identification tag on the meter casing to the city for accuracy testing.

- The applicant's meter must meet the AWWA Standard No. C-701; and
- b. Record the meter reading at the time application is made.
5. Meter rented from city:
 - a. The applicant shall post a meter deposit, determined annually by the director and adopted in the budget based on the cost of the meter, with the city customer service office for each meter rented from city which shall be refunded at the time applicant returns the meter to city in an undamaged condition. Should meter be damaged, city shall retain the deposit until the meter has been repaired or replaced and the difference between the meter repair or replacement cost and the amount of the deposit shall be refunded to applicant. Should applicant fail to pay the final water bill, city may pay the bill from the deposit and refund the balance, if any; and
 - b. The applicant shall pick up and return the meter to the City of Irving Customer Service Office, 825 West Irving Boulevard, Irving, Texas.
 6. The meter shall only be connected to the city water system at the location specified in the application; and if the meter is found at another location, the city shall remove the meter to the customer service office and the applicant shall make a new application;
 7. An applicant shall use the water only for the purpose stated in the application and if the water is not being used for that purpose, the customer service office shall remove the meter and the applicant may only reacquire the meter for stated purposes by making a new application;
 8. The applicant shall make a water payment application deposit of not less than fifty dollars (\$50.00) which will be refunded or applied to the final bill when service is terminated;
 9. The applicant shall return the meter to the customer service office for a monthly consumption reading on the twenty-fifth (25th) of each month or the next working day or shall use another method of obtaining a reading agreed on by the city and applicant;
 10. If the applicant fails to return the meter to the customer service office for a monthly consumption reading on the twenty-fifth (25th) of each month or the next working day or use another method of obtaining reading agreed on by the city and applicant on the application, the minimum bill shall be one hundred dollars (\$100.00) and the maximum may be determined by the application of previous water usage data and/or the purposes for which the water was used;
 11. The applicant shall be charged for the water consumed each month by applicant an amount equal to the amount the applicant would pay under the rates then in effect for traditional consumption of water in the city for similar amounts of water plus a fee set annually by the director and adopted in the budget. Should applicant fail to pay his, her, or its bill, the city shall immediately remove the meter from the city water system and retain possession of the meter until the bill is paid;

12. Should city discover the meter is broken or not accurately registering water service, customer service shall remove the meter and the applicant shall be billed not less than one hundred dollars (\$100.00) and may be billed an amount by the customer service office that reflects more accurately the estimate of water utilized by applicant. Should the applicant wish to continue water service, the applicant shall make a new application for a replacement water meter at no additional cost;
13. This permit is valid for only twelve (12) months and should an applicant fail to return the water meter to customer service office within ten (10) days after expiration of the service, customer service shall recover the meter; and
14. The applicant shall not resell water from city water system.

Sec. 41-7. Sale of water at city equipment yard.

Customer service office may sell water at City Equipment Yard, 132 North Briery Road for ten dollars (\$10.00) plus the water rate in effect at the time for each thousand gallons.

Sec. 41-8. Construction standards.

All work to be performed on city water and sanitary sewer systems shall be in compliance with the "Material Specifications for Water Lines and Appurtenances" and "Material Specifications for Sanitary Sewer Lines and Appurtenances" of the city.

Sec. 41-9. Disconnection of improperly constructed work.

Should the construction of the water or sanitary sewer system fail to comply with applicable law and is not accepted by city, no person shall connected it to the city water or sanitary sewer systems. If it is connected, city shall disconnect it.

ARTICLE III. WATER SERVICES

Sec. 41-10. All water to be metered.

It is unlawful for any person to receive and use water from the city water system if that water is not metered by a city authorized water meter. It is an affirmative defense to this section that the water is from a privately owned fire hydrant being used for fire fighting purposes and is metered by an authorized leak detection device. It is an affirmative defense to this section that the water is from a public fire hydrant being used by city personnel for an authorized public use.

Sec. 41-11. Water meter.

- A. Water meter and fire line detection metered device location; public right-of-way. It is unlawful to locate any city water meter or fire water line detection device outside of a city utility easement. It is unlawful to locate a city water meter or fire water line detection device in any sidewalk, driveway, street or paved parking area. It is an

affirmative defense to this subsection that specific authorization to locate the water meter or fire line detection device outside a utility easement and/or in a sidewalk, driveway, street, or paved parking area was obtained from the director before the water meter or fire line detection device was placed in violation of this subsection.

- B. Certificate of occupancy. No certificate of occupancy shall be issued for any apartment, shopping center, office or commercial or retail operation for use when the water meter and/or fire line detection meter is located on private property unless a person in control of the property obtains appropriate easements, including right of access.
- C. Water bill. Once the applicant has removed the water meter and/or fire line detection meter from the private property, the applicant shall install a master water meter and/or fire line water meter detection device, if the fire line has been installed, on a city utility easement at the point specified by the city customer service division. If the applicant does not pay the water bill the city tenders each month for the master water meter the city may disconnect the water service.
- D. Meters shall be visible for maintenance, reading and repair. It is unlawful for any person to cover over, allow to be covered over, or continue to allow to be covered over any city water meter and/or fire water line leak detector meter by dirt, asphalt, cement or other material which prevents the meter or detector from being maintained, read or repaired. It is unlawful for any person to fail to uncover the city water meter or leak detector which meters flow to that person's property or business.
- E. Unlawful to deny entry to city to maintain, read or repair water meter or fire meter line leak detector meter. It is unlawful for any landowner or person in charge of land and improvements to deny entry upon the land to any city employee thereto maintain, read or repair a city water meter or fire water line leak detection meter.
- F. Payment and foreclosure. The owner and/or agent of an owner of each property which is served by the city water system shall pay all charges for water furnished to the property. If the owner and/or agent refuses or fails to make payment, the city may perfect and fix a privileged lien upon the property for the charges setting forth the amount due, filed with the county clerk. The city may commence a lawsuit in a court of competent jurisdiction to foreclose upon the land and its improvements to satisfy the sum due. The statement or a certified copy of it is prima facie proof of the amount due. If the owner or agent fails or refuses to make payment, the city may discontinue the water service.

Sec. 41-12. Fees for water and sewer taps.

The director shall on October 1st of each year file with the city water office a schedule setting forth the estimated average cost of installation of the service line from three-fourths (3/4) inch through and including two (2) inches which the city shall the charge customers requiring line sizes. Additionally, the city shall large customers the estimated average cost of sewage line installation in sizes four (4) inches through six (6) inches for the lines. The city shall base charges for larger water and sewer lines on estimated cost on a case-by-case basis.

ARTICLE IV. REGULATION OF WATER SYSTEM AND USES OF WATER TAKEN FROM SYSTEM

Sec. 41-13. Control of and access to water systems; interference with access generally.

- A. Water system as city property. All parts of the city water system are the property of the city. The director shall maintain and control each system and keep detailed records concerning all aspects of department operations.
- B. Access to system. Only a person who is authorized by the director will have access to the water system for operation, construction, maintenance, repair, and other service-related purposes.
- C. Obstruction of authorized persons. A person commits an offense if he or she knowingly obstructs a person authorized by the director from:
 - 1. Gaining access to a part of the water system for purposes of operation, inspection, construction, maintenance or repair; or
 - 2. Performing actual operation, inspection, construction, maintenance, or repair of a part of the water system.

Sec. 41-14. Emergency authority.

- A. Purpose and scope. The purpose of this section is to establish the city's policy in the event of shortages or delivery limitations in the city's water supply. This section applies to:
 - 1. All persons and premises within the city using water from the water system; and
 - 2. All retail customers who live in incorporated areas within another city's jurisdiction and are served by the city water system.
- B. Emergency water management plan. The director shall promulgate and submit an emergency water management plan to the city council for approval and when it has been approved by the city council it is incorporated by reference in this chapter as if fully set forth in it and it is enforceable as part of this article, the guidelines of which should include:
 - 1. The conditions under which a particular stage of emergency will be implemented or terminated; and
 - 2. Provisions defining specific events that will trigger an emergency.
- C. Authority. The city manager is authorized to implement measures prescribed in the emergency water management plan when required by this section and by the emergency water management plan approved by the city council. The director is authorized to enforce the measures implemented and to promulgate regulations, to the extent authorized by the emergency water management plan, not in conflict with this section or state and federal laws, in aid of enforcement.
- D. Implementation of emergency order. The director, upon determination that the conditions of a water emergency exist, shall advise the city manager. The city manager may order that the appropriate stage of emergency response, as detailed in the emergency water management plan, be implemented. To be effective, the order must be:
 - 1. Made by public announcement; and

2. Published in a newspaper of general circulation in the city within twenty-four (24) hours after the public announcement, which order becomes immediately effective upon publication.
- E. Duration of order; change; extension. The order can be made effective for up to, but not more than, sixty (60) days from the date of publication. Upon recommendation of the director, the city manager may upgrade or downgrade the stage of emergency when the conditions triggering that stage occur. Any change in the order must be made in the same manner prescribed in subsection (d) for implementing an emergency order. The city council may, upon the recommendation of the city manager and the director, extend the duration of the emergency order for additional time periods, not to exceed one hundred twenty (120) days each. The city manager shall terminate the order in the manner prescribed in subsection (d) for implementing an emergency order when the director determines that the conditions creating the emergency no longer exist.
- F. Violation of section. A person commits an offense if he or she knowingly makes, causes or permits a use of water supplied by the city, contrary to the measures implemented by the city manager as prescribed in the emergency water management plan. For purposes of this subsection, it is presumed that a person has knowingly made, caused or permitted a use of water supplied by the city, contrary to the measures implemented if the mandatory measures have been formally ordered consistent with the terms of subsection (d) and:
1. The manner of use has been prohibited by the emergency water management plan; or
 2. The amount of water used exceeds that allowed by the emergency water management plan.
- G. Authority under other laws. Nothing in this section limits the authority of the mayor, the city council, and the city manager to seek emergency relief under the provisions of any state or federal disaster relief act.

Sec. 41-15. Temporary discontinuance for construction, maintenance or emergency reasons.

- A. Reasons for temporary discontinuance. The director is authorized to temporarily discontinue service to any premises for the following reasons:
1. When a main break or other failure in the water or wastewater systems could injure a person, private or city property, or other parts of the systems;
 2. To perform routine maintenance or repair to any part of the water or wastewater systems;
 3. To perform emergency maintenance or repair to any part of the water or wastewater systems;
 4. To make a connection to a newly constructed or relocated water or wastewater main.

Sec. 41-16. Authorization to discontinue water.

During any stage of the emergency water use plan or upon observance of a violation of this article, members of the police department, fire department, and the department of public works are specifically authorized to shut off water at the faucet or if the faucet controlling the lawn watering, garden watering or irrigation cannot be found, at the meter of any address where water is being used

for lawn watering, garden watering or irrigation in violation of this article or any emergency order when the customer, owner, tenant, permittee, or other person in control of the premises refuses to comply with the emergency order or is not available to cause the irrigation to cease.

Sec. 41-17. Damage of city water system prohibited.

It is unlawful for any unauthorized person to intentionally damage or destroy any portion or appurtenance of the city water utility system, including but not limited to meters, locks, loops, valves, fire hydrants, pumps, piping, tanks, and overflow and blow-off valves.

ARTICLE V. CROSS-CONNECTION CONTROL REGULATIONS

Sec. 41-18. Purposes.

The purposes of this article are as follows:

- A. To protect the public potable water supply of Irving from the possibility of contamination or pollution by isolating within the consumer's internal distribution system(s) or the consumer's private water system(s) contaminants or pollutants which could backflow into the public water systems.
- B. To promote the elimination or control of existing cross-connections, actual or potential, between the consumer's in-plant potable water system(s) and non-potable water system(s), plumbing fixtures, and industrial piping systems.
- C. To provide for the maintenance of a continuing program of cross-connection control which will systematically and effectively prevent the contamination or pollution of the public potable water supply of the city.

Sec. 41-19. Administration.

The director is responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of the director, an approved backflow prevention assembly is required at the consumer's water service connection or within the consumer's private water system for the safety of the water system, the director may require a consumer to install an approved backflow prevention assembly at a specific location on his or her premises.

Sec. 41-20. Installation required.

- A. It is unlawful for any consumer to fail to immediately install, have tested, and maintain in proper working order, at the consumer's expense, an approved backflow prevention assembly required by the director.
- B. If the consumer fails, refuses, or is unable to install, have tested, and maintain an approved backflow assembly requested by the director, the director may discontinue water service to the premises until the requirements have been satisfactorily met. Alternatively, the director may have such installation, tests, or maintenance done and add their costs to the consumer's water bill

Sec. 41-21. Backflow protection required.

- A. Policy. The city will not install or maintain a water service connection to any premises unless the water supply is protected as required by all applicable laws and regulations of the city and of the state. Service of water to any premises may be discontinued by the city if a backflow prevention assembly required by this article is not of the proper type, is not approved by the city, is not installed, tested successfully, and maintained, or if a backflow prevention assembly has been removed, bypassed, or if an unprotected cross-connection exists on the premises. Service will not be restored until such conditions or defects are corrected.
- B. Requirements.
1. Before a consumer may receive a certificate of occupancy or potable water service from the city's system, the consumer shall submit to the director when the director asks for it, a complete installation, test, and maintenance report of a testable backflow prevention assembly showing successful completion of the test.
 2. The consumer shall open his or her system for inspection at all reasonable times to the director to determine whether unprotected cross-connections or other structural or sanitary hazards, including violations of this article, exist. When such a condition becomes known, the director may deny or immediately discontinue service to the premises by providing a physical break in the service line until the consumer has corrected the condition(s) in compliance with the city's ordinances relating to plumbing and water supplies.
 3. The consumer shall install an approved backflow prevention assembly, if required by the director on each service line to his or her water system at or near the property line or at a location approved by the director;
 4. If the consumer's premises have an auxiliary water supply which is not or may not be of safe bacteriological or chemical quality, the consumer shall protect the public water system against backflow from the premises by installing an approved backflow prevention assembly in the service line commensurate with the degree of hazard.
 5. If any industrial fluid or any other objectionable substance, including process waters and waters originating from the city's system which have been or may have been subject to deterioration in quality, is handled on the consumer's premises in such a fashion as to create an actual or potential hazard to the public water system, the consumer shall protect the public system against backflow from the premises by installing an approved backflow prevention assembly in the service line commensurate with the degree of hazard.
 6. If the consumer's premises have internal cross-connections that cannot be permanently corrected or protected against, or intricate plumbing and piping arrangements or if entry to all portions of the premises is not readily accessible for inspection purposes, making it impracticable or impossible to ascertain whether or not dangerous cross-connections exist or may exist, the consumer shall protect the public water system against backflow from the premises by installing an approved backflow prevention assembly in the service line.

7. The owner of any nonresidential building greater than one (1) story elevation shall install, test, and maintain approved backflow devices at locations approved by the director.
8. The owner of any residential building structure greater than two-story elevation shall install, test and maintain approved backflow devices at locations approved by the director.
9. The consumer shall protect all boilers with an approved air-gap separation or an approved reduced pressure principle device.
10. The consumer shall install, test, and maintain an approved backflow device on all bypass systems as required by the director.
11. The consumer shall protect the public water system on any premises where there is an auxiliary water supply with an approved air-gap or an approved reduced pressure principle backflow prevention assembly.
12. The consumer shall protect the public water system on any premises where there is water or any substance that would be objectionable but may not be hazardous to health if introduced into the public water system, with an approved double check valve backflow prevention assembly.
13. The consumer shall protect the public water system on any premises where there is any material dangerous to health which is handled in such a fashion as to create an actual or potential hazard with an approved air gap or an approved reduced pressure principle backflow prevention assembly. Examples of premises where these conditions exist include sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries and plating plants.
14. The consumer shall protect the public water system on any premises where there are unprotected cross-connections, either actual or potential, with approved air gap or an approved reduced pressure principle backflow prevention assembly at the service connections.
15. The consumer shall protect the public water system on any premises where, because of security requirements or other prohibition restrictions, it is impossible or impractical to make a complete in-plant cross-connection survey, against backflow from the premises with either an approved air gap or an approved reduced pressure principle backflow prevention assembly on each service to the premises.

Sec. 41-22. Backflow prevention assembly approval and testing.

- A. It is unlawful for any person to install, test, use, or maintain any backflow prevention assembly that is not an approved backflow prevention assembly evidenced by a "certificate of compliance" or "certificate of approval" issued by an approved testing laboratory.
- B. The following testing laboratory has been approved by the director to test and approve backflow prevention assemblies:
 Foundation for Cross-Connection Control and Hydraulic Research
 University of Southern California
 KAP-200 University Park MC-2531
 Los Angeles, California 90089-2531

- C. Testing laboratories other than the laboratory listed above may be added to an approved list as they are qualified by the director.
- D. Backflow preventers which may be subjected to backpressure or backsiphonage that have been fully tested and have been granted a certificate of approval by a qualified laboratory and are listed on the laboratory's current list of approved backflow prevention assemblies may be used without further qualification.
- E. The consumer at any premises where backflow prevention assemblies are installed shall have a field test performed by a certified backflow prevention assembly tester upon installation and at least once per year. The director may require field tests at more frequent intervals. These tests shall be at the expense of the water user and shall be performed by Irving Water Utilities' personnel or by a certified tester approved by the director.
- F. The consumer shall notify the director in advance when the tests are to be undertaken so that the director may witness the field tests.
- G. The consumer at his or her own expense, shall repair, overhaul, or replace any assembly that is defective.
- H. The consumer shall keep for a period not less than three (3) years records of all tests, repairs, and overhauls of each backflow prevention assembly under his or her control and make them available to the director no later than five (5) days after the test, repair, or overhaul of each backflow prevention assembly.
- I. It is an affirmative defense to this section except for the testing and maintenance requirements that the backflow prevention assembly was installed before (the date this article becomes effective) and was approved at the time of installation and has been properly maintained, if the director is assured that it will satisfactorily protect the water provider's system.
- J. If an existing device is moved from its present location or requires more than minimum maintenance or if the director finds that the maintenance work required by the backflow prevention assembly could in itself create a hazard to health, the consumer shall replace the unit with an approved backflow prevention assembly meeting the requirements of this section.
- K. It is unlawful for any person to use, install, test, or maintain a reduced pressure principle backflow prevention assembly that does not include properly located resilient seated test cocks and tightly closing resilient seated shutoff valves at each end of the assembly. This assembly is designed to protect against a non-health (i.e., pollutant) or a health hazard, (i.e. contaminant). This assembly shall not be used for backflow protection of sewage or reclaimed water.
- L. It is unlawful for any person to use install, test, or maintain a double check valve backflow prevention assembly to protect against anything other than a non-health hazard (i.e. pollutant)
- M. It is unlawful for any person to fail to properly protect any plumbing hazard with an appropriate type of backflow prevention assembly.

Sec. 41-23. Inspection program.

- A. The director may administer an inspection program to assure that backflow prevention devices are properly maintained and operated. The director in administering the inspection

program may take into account the complexity and operating characteristics of the devices and the protection afforded the potable water system by the devices.

- B. Each consumer shall cause all testing and inspections to be performed by a certified backflow prevention assembly technician who is approved by the director.
 - 1. A certified backflow assembly technician may make application with the office of the director. The director shall determine whether an applicant is eligible for registration. Eligibility may be established upon certification as a backflow prevention assembly tester or technician upon successful completion of the state certification program directly related to backflow device certification registration may remain in force providing the technician maintains eligibility for registration or registration is not revoked by the director for cause pursuant to this chapter. When re-certifying, the tester shall renew the registration with the director. If the certification remains expired for a period of one (1) year, the technician shall reestablish eligibility.
 - 2. Each applicant certified as a backflow prevention assembly technician shall furnish evidence to show that he/she has available the necessary tools and equipment to properly test and certify such assemblies. The serial number of each test kit shall be on record with the city. Annually, the technician shall cause each recorded test kit to be tested for accuracy and calibrated to maintain a two (2) percent accuracy factor. The technician shall perform competent and accurate certifications of backflow prevention assemblies tested and submit complete reports of the testing to the director.
 - 3. Backflow prevention assembly technicians shall register all test gauges to be used by them and their serial numbers. They shall list registered serial numbers of test gauges on tests and maintenance reports prior to submitting them to the director. The director may revoke a technician's registration, for failure to register a serial number or to calibrate gauges annually. Certified technicians shall not change the design, or operational characteristics of an assembly during repair or maintenance without prior approval of the director.
- C. It is unlawful for any person to use, install, test, or maintain any backflow prevention device that does not have a functional test cock.
- D. It is unlawful for any person to use, install, test, or maintain any backflow prevention device that does not have identification including the size, model number, and serial number at least one-fourth (1/4) in height and of durable marking material on the device.
- E. It is unlawful for any person to install a backflow prevention device without a plumbing permit
- F. It is unlawful for any person to use, install, test, or maintain any backflow devices that does not prohibit water flow upon removal.
- G. Should any consumer operate any system supplied by city water in violation of any provision of this article, the city may completely disconnect all service lines serving the system until it is in compliance with all applicable laws. The cost of disconnection and the estimated cost of reconnection shall be paid by the consumer before service is restored. If fire protection is being supplied by the noncompliant system, the city may provide necessary personnel to reconnect the system in case of an emergency. However, the owner is responsible for proper protection and liability in association with all cross-connection circumstances.

ARTICLE VI. SEWER CONNECTIONS

Sec. 41-24. Sanitary sewer connections required.

The owner or occupant of every building located on any lot or parcel of land within the city, the property line of which extends to within one hundred (100) feet of any sanitary sewer main adequate both as to size and grade to serve the property, shall construct or cause to be constructed, a suitable water closet upon the property, and shall connect or cause it to be connected with the sanitary sewer main in compliance with all provisions of this Code or other ordinances of the city regulating the construction.

It is an affirmative defense to this section that the water closet is located in excess of two thousand five hundred (2,500) feet from the nearest sanitary sewer main owned by the city and the property between the sanitary sewer main and the water closet has been platted as one (1) lot.

Sec. 41-25. Pit toilets prohibited generally.

It is unlawful for any person to build, construct, use, or maintain any pit toilet, pit privy or dry closet on any lot or tract of land within the city.

Sec. 41-26. Compliance with article in newly annexed territory.

When any territory is annexed to the city, any pit toilet, pit privy, or dry closet existing in the territory annexed shall be discontinued by the owner of the property on which it is located within one (1) year from and after the date of passage of the final annexation ordinance affecting the property.

Sec. 41-27. When septic tank required.

Where no city sanitary sewer main is available or cannot be made available to the property, the owner or occupant of the building situated on it shall construct a septic tank of sufficient size and capacity to serve the property or building in compliance with applicable laws and construction standards.

ARTICLE VII. GENERAL SANITARY SEWER USE REGULATIONS

Sec. 41-28. Admissible discharges.

A person shall discharge into the sanitary sewer only normal domestic wastewater, properly shredded garbage, and other wastes which the city's POTW operated by the Trinity River Authority is capable of handling, so that:

- A. Effluent from the sanitary sewer is of the quality required by the current legal standards of the Texas Commission on Environmental Quality and/or any governmental body having legal authority to set standards for such effluents;

- B. Effluent coming into the sanitary sewer does not cause extraordinary repairs or replacements or increase operation and maintenance expense; and
- C. The discharger's effluent does not create a health hazard to workers installing or maintaining the system.
- D. The discharger's effluent does not create a danger of explosion or emission of toxic gasses or fumes that may enter into the sewers of other users and/or be harmful to the sewer system, other users, and/or any person installing, maintaining, or inspecting the system.

Sec. 41-29. Inadmissible discharges.

- A. General prohibitions. No person shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes overload, pass through, or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.
- B. Specific prohibitions. No person shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
 1. Hydrocarbons, flammable and explosive chemicals any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas that exhibits a flash point less than one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Celsius) using the test methods specified in 40 CFR 261.21 or a concentration that allows the atmospheric concentration to exceed ten (10) percent of the lower explosive limit;
 2. Wastewater having corrosive properties capable of causing damage or injury to structures, equipment and/or personnel of the POTW, as per the specific prohibition in the applicable local limits in Section 41-29 (b) (25). In no case shall wastewater containing a pH of less than 5.5 be discharged unless the POTW is specifically designed to accommodate such discharges;
 3. Solid or viscous substances in amounts which may cause obstruction of the flow in the POTW resulting in interference, blockage, or damage to the POTW;
 4. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, may cause interference with the POTW;
 5. Wastewater having a temperature greater than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Celsius), or which may inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which may cause the temperature at the introduction into the treatment plant to exceed one hundred four (104) degrees Fahrenheit (forty (40) degrees Celsius);
 6. Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin, or fats, oils, or greases of animal or vegetable origin in concentrations greater than that specified in the applicable local limit in Section 41-29 (b)(25)
 7. Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety

8. Trucked or hauled pollutants, except at discharge points designated by director and TRA in compliance with section 41-47 (d) of this chapter;
9. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, may be sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
10. Wastewater which imparts color which may not be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;
11. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
12. Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, and unpolluted wastewater, unless specifically authorized by the director;
13. Sludge, screenings, or other residues from the pretreatment of industrial wastes;
14. Medical wastes, except as specifically authorized by the director and TRA in a wastewater discharge permit;
15. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
16. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
17. A discharge of water, normal domestic wastewater, or industrial waste which in quantity of flow exceeds, for a duration of longer than fifteen (15) minutes, more than four (4) times the average twenty-four-hour flow during normal operations;
18. Insecticides and herbicides in concentrations that may not be amenable to treatment;
19. Polychlorinated biphenyls;
20. Garbage other than properly shredded garbage;
21. Wastewater or industrial waste generated or produced outside the city, unless approval, in writing, has been given by the director to the person discharging the waste;
22. Any material, chemical, or substance that exceeds standards set by any federal or state agency having authority to establish such standards such as but not limited to the federal categorical pretreatment standards;
23. Miscellaneous materials which may exert or cause:
 - a. Concentrations of total suspended solids greater than two hundred fifty (250) mg/l (such as, but not limited to, fuller's earth, lime slurries, and lime residues) unless approved by the director;
 - b. Concentrations of BOD greater than two hundred fifty (250) mg/l unless approved by the director; or
 - c. Volume of flow or concentration of wastes constituting "slugs."
24. Pretreatment chemicals or other additives including but not limited to biological agents, used in any pretreatment system or device not approved by the director prior to being used. This includes but is not limited to materials added to grease traps, grit traps or septic tanks;
25. Any waters or wastes containing obnoxious, toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, that

may injure or interfere with any wastewater treatment process, cause acute worker health and safety problems, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant, including, but not limited to, the following pollutants:

<u>TOXIC POLLUTANT</u>	<u>TRA CENTRAL INSTANTANEOUS MAX.</u> Limits(mg/l)
Arsenic	0.2
Cadmium	0.1
Chromium (total)	2.9
Copper	2.3
Cyanide	0.5
Lead	0.9
Mercury	0.0004
Molybdenum	0.2
Nickel	4.6
Selenium	0.1
Silver	0.8
Zinc	8.0
Oil & Grease	200
Total Toxic Organics	2.13
pH	5.5 to 11.0 Standard Units

Concentration limits apply at the point where the wastewater is discharged to the sewage system unless otherwise specified. All concentrations for metallic substances are the "total" metals unless indicated otherwise. At the discretion of city, mass limitations may be imposed in addition to or in place of the concentration based limitations above.

- C. Upon the promulgation of any federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in the subcategory, shall immediately supersede the limitations imposed under this chapter. It is the responsibility of each person to be knowledgeable of all regulations applicable to him or her. Failure of the city to identify new persons or to notify existing persons of new federal regulations does not in any way relieve the person of the duty to comply. The national categorical pretreatment standards found in 40 CFR chapter I, subchapter N, parts 405-471 are incorporated in this chapter for all purposes.
- D. Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

Sec. 41-30. Alternatives for handling inadmissible discharges.

- A. Actions available to the city. If any waters or wastes are discharged, accidentally or intentionally, to the public sewers or proposed to be discharged to the wastewater facilities which contain the substances or possess the characteristics enumerated in section 41-28(b), or which, in the judgment of the director, may have a deleterious effect upon the wastewater

facility or its employees, the receiving waters of the POTW, or the public or which may create a public nuisance, the director may reject the waste or may require that the discharger do any or all of the following:

1. Pretreat the water or wastes to an acceptable condition for discharge to the public sewers;
 2. Control the quantities and rates of discharge through the issuance of a permit;
 3. Submit and implement a written accidental spill prevention/response plan;
 4. Design and implement precautionary management practices to protect the sanitary sewer from accidental spills; or
 5. Cover the cost of handling and treating the wastes under the provisions of this chapter.
- B. [Review and approval.] If the director permits the pretreatment or equalization of waste flows, the design and installation of the plant and equipment shall be subject to the review and approval of the director and subject to the requirements of all applicable laws.
- C. [Fail to meet requirement.] It is unlawful for any person to fail to meet a requirement imposed by the director.
- D. Dilution prohibited. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.
- E. Notification. The city may notify the affected user within ninety (90) days of any changes in effluent standards.
- F. Right of revision. The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on dischargers to the POTW.

Sec. 41-31. Protection of sewer system.

All industries which store or maintain a significant quantity of chemicals shall protect the sanitary and storm sewers from accidental spills. The owner or user shall maintain and provide facilities to prevent accidental discharge of prohibited materials at the owner's or user's expense. This protection shall consist of a wall or berm around all four (4) sides of the storage area. The construction material for the walls or berm shall be compatible with all stored materials or chemicals. The capacity of this containment area shall be sufficient to contain the contents of the largest container or storage tank plus an additional ten (10) percent except where a containment area that stores containers with a capacity of fifty-five (55) gallons or less. This area shall have the capacity to contain the volume of twenty-five (25) percent of all the containers or, if the storage area has containers with a volume greater than fifty five (55) gallons, it shall have a capacity to retain the volume of twenty-five (25) percent of the total number of fifty-five-gallon barrels or the volume of the largest storage container, whichever is the larger volume. If this area is to be located external to any existing structure, the owner/operator shall maintain it by:

- A. Keeping all containers closed;
- B. Maintaining and securing bung caps in drums used for storage;

- C. Placing a protective awning or covering over the storage area for protection from stormwater; and
- D. Installing a drain valve to drain rainwater. The operator shall secure this valve and keep it locked in the closed position except when necessary to drain rainwater. The operator shall insure, by whatever means is necessary, that any rainwater drained is unpolluted.

Sec. 41-32. Devices and testing required of industry.

- A. Grease and oil traps. The industrial user shall provide for the proper handling of liquid wastes containing grease in excessive amounts, sand, or other heavy solids. The SIU shall provide traps of a type and capacity approved by the director and shall locate them as to be readily and easily accessible for cleaning and inspection.
- B. Process flow water meters. The industrial user or owner shall install and maintain in working order, a separate isolated meter for the purpose of monitoring process water used in all its industrial or manufacturing processes. This meter is in addition to the water meter mentioned in subsection (g) of this section.
- C. Backflow preventer. The industrial user or owner shall install and maintain in working order a chemical resistant industrial grade backflow prevention device on the process water supply line so as to prevent possible back-siphoning of industrial process waters or chemicals back into the potable water supply. The user or owner shall make this device readily accessible for testing by city personnel. A six-inch air-gap between potable water lines and any process waters may be substituted for a backflow preventer.
- D. Control manhole. The industrial user or owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. The industrial user shall locate the manhole so that it is safely accessible without restriction and shall construct it in compliance with plans approved by the director. The owner or user shall install the manhole at his or her expense and maintain it so that it is safe and accessible at all times.
- E. Test for strength of industrial wastes. The city may determine wastewater flow and concentration of constituents in whatever manner it designates. The time of selection as well as the number and type of the sample(s) shall be at the sole discretion of the city. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter may be determined in compliance with 40 CFR Part 136 or methods approved by EPA or other agencies that have EPA approval authority for establishing methods for testing and analysis. These measurements, tests, and analyses may be determined at the control manhole provided, or upon suitable samples taken at the control manhole or at any other manhole considered by the director as appropriately isolated. Sampling may be carried out by methods specified in the latest edition of 40 CFR Part 136 to reflect the effect of constituents upon the sewage works of the city and to determine the existence of hazards to health, life, limb, and property. The director, guided by the particular analyses involved, may determine whether a twenty-four-hour composite sample from all outfalls of an industrial user is appropriate or whether a grab sample or samples should be taken. If any owner so wishes, flow determinations may be made by a wastewater meter

installed and maintained at the sampling station at the user's expense. The director may include calibration requirements in the user's permit.

- F. Cost of tests. Each permitted industry that does not discharge wastewater in excess of two hundred fifty (250) mg/l BOD or suspended solids shall compensate the city for the cost of sampling, laboratory analysis, and administrative cost required for monitoring discharges to comply with city, state or federal effluent standards. For industries that discharge BOD and suspended solids in excess of two hundred fifty (250) mg/l, the above cost will be included in their surcharge billing as outlined in this chapter.
- G. Isolated water and sewer service. A significant industrial user shall provide an isolated water service, controlled by a city-owned and maintained water meter. In addition, the significant industrial user (SIU) shall provide an isolated sewer service so that its industrial wastewaters can be monitored. The SIU shall install a city-approved control manhole on the isolated sewer service. The SIU shall pay for installation, maintenance and operation of the control manhole, unless that fee is waived by the director.

Sec. 41-33. National categorical pretreatment standards.

- A. National pretreatment standards. The categorical pretreatment standards found in 40 CFR Chapter I, Subchapter N, Parts 405--471 are incorporated in this chapter for all purposes.
- B. Mass concentration. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director may impose equivalent concentration or mass limits in compliance with 40 CFR 403.6(c).
- C. Combined waste stream formula. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
- D. Variance. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- E. Gross adjustment. A user may obtain a net cross adjustment to a categorical standard in compliance with 40 CFR 403.15.
- F. Upon a finding that a user meeting the criteria of an SIU has no reasonable potential for adversely affecting the POTW's operation, and/or for violating any pretreatment standard, or requirement, and is not subject to national categorical pretreatment standards, the city may at any time on its own initiative, or in response to a petition received from an user, determine that such user should not be considered a significant industrial user. This determination shall be made in compliance with procedures in 40 CFR 403.8(f)(6).

Sec. 41-34. Pretreatment of wastewater.

- A. Pretreatment facilities. Each user shall provide wastewater pretreatment facilities as necessary to comply with its permit and this chapter and shall comply with all categorical pretreatment standards, local limits, and the prohibitions set out in this chapter within the time limitations specified by EPA, the state, or the city, whichever is more stringent. The user shall provide, operate, and maintain all facilities necessary for compliance at the users

expense. The user shall provide detailed plans describing the facilities and operating procedures and submit them to the director for review before such facilities are constructed. When the director requests them, the user shall supply the director with plans and operating procedures for facilities existing prior to the effective date of this chapter. The director's acceptance and review of the plans and operating procedures do not relieve the user from the responsibility to modify the facilities as necessary to produce only discharge acceptable to the city under the provisions of this chapter.

B. Additional pretreatment measures.

1. Whenever necessary, the director at his or her discretion may require a user to restrict its discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.
2. The director may require any person discharging into the POTW to install and maintain, on his or her property and at his or her expense, a suitable storage and flow-control facility to ensure equalization of flow. The director may require a wastewater discharge permit solely for flow equalization.
3. Each user shall provide grease, oil, and sand interceptors when, in the opinion of the director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil or sand. Each user shall provide interception units of the type and capacity approved by the director and, shall locate them so that they are easily accessible for cleaning and inspection. Each user shall inspect, clean, and repair the interceptors regularly, as needed, at his or her expense.
4. The director may require a user with the potential to discharge flammable substances to install and maintain an approved combustible gas detection meter and to take whatever action to reduce flammables the director deems necessary or appropriate.

C. Accidental discharge/slug control plans. At least once every three years or when a permit come up for renewal, the director shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The director may require a user to develop, submit for approval, and implement such a plan. An SIU from whom the director requires an accidental discharge/slug control plan shall address in the plan, at a minimum, the following:

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

D. Hauled wastewater. A user may introduce septage waste into the POTW only at locations designated by the director and at such times as are established by the director. No user shall introduce into the POTW waste that violates any applicable law. The director may require

septic tank waste haulers to obtain wastewater discharge permits in addition to other permits that may be required (for example, waste hauler's permits).

Sec. 41-35. Wastewater discharge permit application.

- A. Time and method of compliance. A person commits an offense if he or she discharges any waste prohibited by this chapter into any sanitary sewer without first obtaining a discharge permit and following its requirements.
- B. Wastewater analysis. When requested by the director, a user shall submit information on the nature and characteristics of its wastewater by the deadline stipulated. The director may prepare a form for this purpose and may periodically require users to update this information.
- C. Wastewater discharge permit requirement. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the director. It is an affirmative defense to this section that a significant industrial user has filed a timely application pursuant to this chapter. The director may require other users to obtain wastewater discharge permits as necessary.
- D. It is unlawful for any person to violate the terms and conditions of a wastewater discharge permit. 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 applicable law.
- E. Wastewater discharge permitting new connections. Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW shall obtain a permit prior to beginning or recommencing the discharge.
- F. Permits after effective date of ordinance shall meet certain conditions. A person wishing to obtain or renew a permit for discharge of industrial waste after the effective date of this chapter shall:
 - 1. Submit an application which is a sworn, notarized document on a form issued by the director;
 - 2. Update this document if and when any information contained within it changes, within ten (10) days of that change;
 - 3. Install pretreatment facilities and/or flow-regulating devices approved by the director;
 - 4. Provide a sampling point approved by the director;
 - 5. Submit estimated amount and strength of any wastes;
 - 6. Submit all information required by the director;
 - 7. Pay the permit fee established by the director annually and adopted in the budget;
 - 8. Demonstrate the capability to establish a self-monitoring and reporting program at its own expense.
- G. Wastewater discharge permit application contents. Each user required to obtain a wastewater discharge permit shall submit a permit application containing the following information:
 - 1. Name(s) and title(s) of the individual(s) representing an industry or corporation who have legal responsibility for insuring compliance with federal, state, and local laws;
 - 2. Business address and phone number of the legally responsible individual(s);
 - 3. Home address and phone number of the legally responsible individual(s);

4. A certified statement that the above named individual(s) is/are responsible for insuring compliance with all appropriate federal, state and local laws;
5. A recent color photograph and a copy of the driver's license of the legally responsible individual(s);
6. Names and addresses of the industry's registered agent and of its president and vice-president if it is a corporation;
7. Names and addresses of the industry's high managerial agents, if it is not a corporation;
8. All information required by this chapter;
9. 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;
10. Number of employees, hours of operation, and proposed or actual hours of operation;
11. Each product produced by type, amount, process or processes, and rate of production;
12. Type and amount of raw materials processed (average and maximum per day);
13. For new construction, 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; For an existing building if the information is available
14. Time and duration of discharges; and
15. Any other information requested by the director.

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

- H. Application signatories and certification. An authorized representative of the user shall sign all wastewater discharge permit applications and user reports beneath the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in compliance 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."

- I. Wastewater discharge permit decisions. The director will evaluate the data furnished by the user and may require additional information. Within sixty (60) days of receipt of a complete and accurate wastewater discharge permit application, the director will determine whether or not to issue a wastewater discharge permit. The director may deny any application for a wastewater discharge permit.

Sec. 41-36. Wastewater discharge permit issuance process.

- A. Wastewater survey. When requested by the city, an industrial user shall submit information on the nature and characteristics of its wastewater by completing a wastewater survey prior

to commencing its discharge and shall update the survey when the director requests it to do so. Failure to complete or update this survey is reasonable grounds for terminating water service to the industrial user and is a violation.

- B. Comply with conditions. An industry that obtains a wastewater discharge permit shall comply with all conditions and terms specified in its permit and with all applicable laws. Failure to do so is a violation and is justification for revoking the industry's wastewater discharge permit.
- C. Wastewater discharge permit duration. All user permits shall expire within three (3) years of the issue date.
- D. Permit non-transferable. Discharge permits are not transferable to another person or industry.
- E. Wastewater discharge permit contents. A wastewater discharge permit includes such conditions as are deemed reasonably necessary by the director to prevent the introduction of pollutants into the POTW that will interfere with its operation, to prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW, protect the quality of the water body receiving the treatment plant's effluent, protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public, facilitate sludge management and disposal, and protect against damage to the POTW.
 - 1. Each wastewater discharge permit contains:
 - a. A statement that the wastewater discharge permit duration is three (3) years;
 - b. A statement that the wastewater discharge permit is non-transferable;
 - c. Effluent limits based on applicable pretreatment standards;
 - d. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
 - e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.
 - 2. Wastewater discharge permits may contain the following conditions:
 - a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non routine discharges;
 - d. Requirements for development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - e. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

- f. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
 - g. Other conditions required by the director.
- F. Wastewater discharge permit modifications. The director may modify a wastewater discharge permit at any time:
 1. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 2. To address significant alterations or additions to the users operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance;
 3. To accommodate a change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 4. Because of information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;
 5. Because of violation of any terms or conditions of the wastewater discharge permit;
 6. Because of the permittee's misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 7. To revise or a grant a variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
 8. To correct typographical or other errors in the wastewater discharge permit; and
 9. For any other good cause.
- G. Wastewater discharge permit revocation. The director may revoke a wastewater discharge permit for the permittee's:
 1. Failure to notify the director of significant changes to the wastewater prior to the changed discharge;
 2. Failure to provide prior notification to the director of changed conditions pursuant to this chapter;
 3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
 4. Falsification of a self-monitoring, semi-annual, or any other report required by the director;
 5. Tampering with monitoring equipment;
 6. Refusal to allow the director timely access to the facility premises and records;
 7. Failure to meet effluent limitations;
 8. Failure to pay fines;
 9. Failure to pay sewer charges;
 10. Failure to meet compliance schedules;
 11. Failure to complete a wastewater survey or the wastewater discharge permit application;
 12. Failure to provide advance notice of the transfer of business ownership of a permitted facility;
 13. Violation of any pretreatment standard or requirement or of any term of the wastewater discharge permit or of any section of this chapter; or

14. Failure to maintain appropriate records.
 15. Failure to provide a required monitoring manhole and/or failure to provide twenty-four-hour unrestricted access to a required monitoring manhole.
- H. Wastewater discharge permits are voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.
- I. Wastewater discharge permit re-issuance. A user with an expiring wastewater discharge permit shall apply for a new wastewater discharge permit by submitting a complete permit application in compliance with this article within the time limit specified in the renewal notice sent by the director. The permit may be renewed only after the following requirements have been met:
1. The permittee proves that it is currently in compliance with the effluent standards and other requirements set forth in this chapter;
 2. If the permittee is not in compliance with the effluent standards of this chapter it has established a compliance schedule approved by the director and it is in compliance with this schedule; and
 3. The permittee has paid the renewal fee established by the director annually and adopted in the budget.

Sec. 41-37. Reporting requirements.

- A. Baseline monitoring reports. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 FR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director a report which contains the information listed in section 41-37 C below.
- B. [Categorical users.] At least ninety (90) days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard shall submit to the director a report which contains the information listed in section 41-37 C below.
- C. [Method of pretreatment.] A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged. Users described in section 41-37 A, B, and C shall submit the following information:
1. The name and address of the facility, the name of the operator, and the name of owner;
 2. A list of any environmental control permits held by or for the facility;
 3. A brief description of the nature, average rate of production, and standard industrial classification codes for the operation(s) carried out by the user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;
 4. 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 waste stream formula set out in 40 CFR 403.6 E;

5. A list of the categorical pretreatment standards applicable to each regulated process;
 6. An existing source shall give the results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or equivalent mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in compliance with procedures set out in section 41-37 L. Sampling must be performed in compliance with procedures set out in section 41-37 M;
 7. An existing source shall give a statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements;
 8. If additional pretreatment and/or O&M will be required by an existing source to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 41-37 D; and
 9. All baseline monitoring reports must be signed and certified in compliance with this article.
- D. Compliance schedule progress reports. A user required to submit a compliance schedule by section 41-37 C 8 shall meet the following requirements:
1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
 2. No increment referred to above shall exceed nine (9) months;
 3. The user shall submit a progress report to the director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
 4. In no event shall more than nine (9) months elapse between progress reports to the director.
- E. Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in section 41-37 C 4 through 7. All users subject to equivalent mass or concentration limits

established in compliance with the procedures in 40 CFR 403.6(c), submit reports containing a reasonable measure of the user's long-term production rate. All other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), shall submit reports including the user's actual production during the appropriate sampling period. Users shall sign and certify compliance reports in compliance with this article.

- F. Periodic compliance reports. All significant industrial users shall, at a frequency determined by the director but in no case less than twice per year, submit reports indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All users shall sign and certify all reports in compliance with this article.

Users shall submit only wastewater samples that are representative of the user's discharge. Users shall properly operate wastewater monitoring and flow measurement facilities, keep them clean, and maintain them in good working order at all times. The failure of a user to keep its monitoring facility in good working order are not grounds for the user to claim that sample results are unrepresentative of its discharge.

If a user, subject to the reporting requirement in this section, monitors any pollutant more frequently than required by the director, using the procedures prescribed in section 41-37 L. and M., the user shall include results of this monitoring in the report.

- G. Reports of changed conditions. Each user shall notify the director of any planned changes to the user's operations or system before the change is made. The director may require the user to submit any information he or she needs to evaluate the changed condition, including a wastewater discharge permit application. The director may issue a new wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions. An industry shall notify the director in case of a change involving any of the following:

1. Ownership;
2. Location;
3. Responsible and/or contact person;
4. Product line or process;
5. Wastewater quality or quantity; or
6. Significant change in business, including but not limited to change in number of employees, amount of work space, or productivity.

- H. Reports of potential problems. An industry shall notify the director and the Trinity River Authority in case of a problem or potential problem, as described below, within twenty-four (24) hours of first becoming aware of the problem or potential problem.

1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine or episodic nature, a non-customary batch discharge, or a slug load that may cause potential problems for the POTW, the user shall immediately telephone and notify the director, and TRA, of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user. The user shall notify the director and the TRA of a discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), the first month it occurs. The

- user may refrain from notifying the director and TRA in subsequent months during which the user discharges no more than previous quantities of any hazardous waste;
2. Within five (5) days following a problem or potential problem discharge, the user shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. It is an affirmative defense to this subsection that the director waived the requirement. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any civil or criminal liability; or
 3. The user shall permanently post a notice on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in this section. Employers shall ensure that all employees who may cause such a discharge to occur or who may observe such a discharge are advised of the emergency notification procedure.
- I. Reports from unpermitted users. All users not required to obtain a wastewater discharge permit shall provide reports to the director as the director may require.
 - J. Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user shall notify the director within twenty-four (24) hours of receipt of the sample analysis results. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within thirty (30) days after it received the initial sample analysis results. It is an affirmative defense to the re-sampling requirement that the director monitors discharge at the user's facility at least once a month, or that the director sampled after the user's initial sampling but before the user received the results of this sampling.
 - K. Notification of the discharge of hazardous waste. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA regional waste management division director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW the notification also shall contain the following information to the extent such information is known and readily available to the user:
 1. An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month; and
 2. An estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months.Users shall notify the director of the discharge of hazardous waste no later than one hundred eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. It is an affirmative defense to this subsection that the pollutant is already reported by the user subject to categorical pretreatment standards under the self-monitoring requirements of sections 41-37 A, 41-37 E, and 41-37 F.

If a new regulation under section 3001 of RCRA identifies additional characteristics of hazardous waste or lists any additional substance as a hazardous waste, the user shall notify the director, the EPA regional waste management waste division director, and state hazardous waste authorities of the discharge of the affected hazardous waste within ninety (90) days of the effective date of the regulation.

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

This section does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, by a permit, or by any applicable law.

- L. Analytical requirements. The user shall submit samples for pollutant analyses, including sampling techniques, as part of a wastewater discharge permit application or report only to a lab which performs the analysis in compliance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, the user shall submit samples to a lab which performs analysis in compliance with procedures approved by EPA.
- M. Sample collection. The user shall collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the director may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds shall be obtained using grab collection techniques.
- N. Timing. The submission date of a written reports is its postmark date. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date the city received the report is its submission date.
- O. Record keeping. Users subject to the reporting requirements of this chapter shall retain and make available for inspection and copying all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling; 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 the analyses. Users shall make these records available for a period of at least three (3) years, or for the duration of any litigation concerning the user or the city, or for as long as the director requires.

Sec. 41-38. Compliance monitoring.

- A. Right-of-entry--Inspection and sampling. The director has the right to enter the premises of any user to determine whether the user is complying with all requirements of applicable laws and any wastewater discharge permit or order. Users shall allow inspecting or sampling personnel ready access to all parts of the premises for inspections, sampling, records

examination, copying, and performing any additional duties. The director may inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, or others having a direct bearing on the kind and source of discharge to the sewers, waterways or facilities for waste treatment, including the following:

1. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director will be permitted to enter without delay for the purposes of performing specific responsibilities as outlined above;
2. The director shall have the right to install on the user's property, or to require installation of such devices as are necessary to conduct sampling and/or metering of the user's operations. The user shall pay for all sampling and analysis performed by the director to monitor compliance;
3. The director may require the user to install monitoring equipment as necessary. The user shall maintain the facility's sampling and monitoring equipment at all times in safe and proper operating condition at its own expense. The user shall calibrate all devices used to measure wastewater flow and quality, at a minimum, annually to ensure their accuracy;
4. The user shall promptly remove any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled at the written or verbal request of the director and shall not replace it. The costs of clearing such access shall be born by the user; and
5. It is unlawful for any person to cause unreasonable delays in allowing or to refuse to allow inspecting or sampling personnel access to the user's premises.
6.
 - a. In accordance with 40 CFR 403, the City shall inspect and monitor each permitted Industrial User a minimum of once per year. If the City elects to perform compliance monitoring for the industry then the City will monitor the industry a minimum of semi annually.
 - b. If the director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community then the director may seek issuance of a search warrant from an appropriate court.

Sec. 41-39. Confidential information.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, monitoring programs, and from the director's inspection and sampling activities shall be available to the public without restriction, unless the user specifically requests at the time he or she submits it that it be kept confidential, and is able to demonstrate to the satisfaction of the director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under Texas

Government Code Chapter 552. When the user requests that information be kept confidential and demonstrates that it can legally be kept confidential, the director shall not make the portions of a report which might disclose trade secrets or secret processes available for inspection by the public. but may make it available to governmental agencies for uses related to the TPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. The director shall not consider wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 confidential information and shall make it available to the public without restriction.

Sec. 41-40. Publication of users in significant noncompliance.

The director shall publish annually, in the largest daily newspaper published in the city, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance means:

- A. Chronic violations of wastewater discharge limits; those in which sixty-six (66) percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- B. Technical review criteria (TRC) violations; those in which thirty-three (33) percent or more of wastewater measurements, taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other discharge violation that the director and/or TRA believes has caused, alone or in combination with other discharges, interference or pass through or which endangered the health or safety of POTW personnel or the general public;
- D. Any discharge of pollutants that has caused imminent danger to the public or to the environment, or has resulted in the director's or TRA's exercise of its emergency authority to halt or prevent it;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any violation which the director or TRA determines will adversely affect the operation or implementation of the local pretreatment program.

Sec. 41-41. Costs passed on to industry.

- A. If the character of the discharge from an industry or business is such that the city or Trinity River Authority incurs additional cost for transporting or treating its wastewater, the industry or business shall pay a surcharge. If by reason of the strength of its discharge an industry is

disconnected from city services, the industry shall pay a disconnection fee. Surcharges and fees may be set by the director as follows:

1. Surcharge for industry. Any industrial user that discharges over-strength wastewater shall pay a surcharge assessed by the city using the formula in section 41-41(b)(6);
2. Surcharge for class groups. Class I, II, or III commercial and industrial establishments which discharge wastewater into the city sanitary sewer system shall meet the requirements of this section. Class I, II and III are defined as:
Class I - Eating places: Includes restaurants, bars, lounges and other establishments which engage in preparation of food or beverage which is served directly to the consumer;
Class II - Equipment service facilities: Includes establishments which perform or provide washing, cleaning or servicing of automobiles, trucks, buses, machinery or equipment; this class includes public facilities, facilities limited to specific companies, and attended and/or coin-operated establishments; and
Class III - Food and kindred products processing: Includes commercial establishments which engage in the preparation, packaging, processing or distributing of food, food products, grains or produce, other than those included in Class I, and which discharge less than one hundred fifty thousand (150,000) gallons of wastewater per month.

B. All businesses falling within one (1) or more of the above class groups shall be subject to and pay a surcharge as set forth in section 41-41(b)(6) below. In addition, these class groups shall comply with the following requirements:

1. The director may require that the establishments in the different class groups pay a surcharge based on wastewater strength determination for that particular class group. Strengths for biochemical oxygen demand and total suspended solids may be determined on samples collected from establishments in each class group;
2. Flow determinations may be made by estimating flow from water consumption records or flow meters as outlined in this chapter, except that a permit may not be required. If a business that falls under the requirements of this section is located in a larger facility served by a master meter, the director may estimate the wastewater flow from the business;
3. If a business contains operations from more than one (1) class group and it is determined that the surcharge rate for a particular class group would not adequately compensate the city for its costs of treatment, the director may assess an additional charge based on a proportional average of the class groups involved or require the business to pay an industrial surcharge as outlined in this chapter;
4. A business placed into a class group may elect to have its surcharge determined from composite samples in lieu of the class averages provided that:
 - a. A written request to do so is submitted to, and approved by, the director;
 - b. The business installs a manhole built to the director's specifications at the sole expense of the requesting business;
 - c. The entity obtains and strictly follows at its expense a self-monitoring procedure to include sampling and analyses prescribed by the director;
 - d. The requesting entity agrees and understands that the director may obtain check samples, either grab or composite, from the monitoring site for the

purpose of checking the accuracy of the self-monitoring procedures and analyses prescribed above, and that in the event of discrepancies, the director's data shall be used for determining the surcharge; and

- e. The laboratory employed by the requesting business has been approved by the director prior to implementation of self-monitoring. Subsequent changes in the laboratory shall have prior approval by the director.
 5. At the option of the director, the business may be removed from a class surcharge group and surcharges determined in compliance with this chapter;
 6. The formula for determining industrial and class surcharge for chapter 41 is:
Surcharge = $Q \times 8.34 \times [a (\text{BOD} - 250) + b (\text{TSS} - 250)] \times 1.20$
where:
Q = Flow of wastewater expressed in millions of gallons (example: 1.0 = 1 million gallons);
8.34 = Weight in pounds of one (1) gallon of water
250 = Normal limits of BOD or normal limits of TSS in domestic wastewater expressed in mg/l;
1.20 = Cost factor to recover administrative overhead cost including, but not limited to, sampling cost;
a = Unit cost of treatment per pound of BOD; and
b = Unit cost of treatment per pound of TSS;
 7. Upon request by a business listed as Class I, II, or III, the director may conduct an on-site inspection for the purpose of determining whether or not the type of operation conducted by the business is likely to generate extra-strength sewerage. On the basis of this inspection, the business may be excluded from the class surcharge. If exempted, the owner shall notify the director of any significant changes in his or her business. This notification shall be within ten (10) days of the date that this significant change occurs. This exception may become null and void if, upon subsequent investigation, extra-strength sewerage is actually being generated by the business or the operation of the business changes, at which time a redetermination may be made.
- C. Other fees. If a surcharge for an industry does not recover all of the sampling cost, as calculated by using the administrative cost recovery factor described in this article, the amount of sampling cost not recovered may be added to that industry's surcharge.

Sec. 41-42. Private waste operators.

- A. Waste management operator. Any person who is a waste management operator who discharges waste into the sanitary sewer shall:
 1. Obtain a permit from the director and comply with it;
 2. Install and maintain an accurate sewage metering device;
 3. Compensate the city for the full cost of all sample collections and laboratory analysis for the purpose of monitoring and maintaining control of the discharge of waste to the city's sanitary sewer;

4. Maintain accurate records, available to the director showing the volume of waste, date received, date disposed, types of waste, and names and addresses of producers of all waste being processed; and
 5. Comply with all applicable federal, state, and local laws.
- B. Cost recovery. Waste management operators and haulers of septic tank or portable sanitation waste shall pay for the treatment of waste as set forth in this chapter.

ARTICLE VIII. LIQUID WASTE TRANSPORTERS

Sec. 41-43. Liquid wastehauler permit required.

- A. Operation of vehicle. A person commits an offense if he or she operates or causes to be operated a vehicle for the purpose of transporting liquid waste without a permit. A person shall use a permitted, vehicle for transportation of liquid waste only of the type designated on the permit for the vehicle. A person shall obtain a separate permit for each vehicle he or she operates or causes to be operated for the purpose of transporting liquid waste. A permit issued by the city excludes the hauling of hazardous wastes and is not transferable.
- B. Application for permit. A person who desires to obtain a permit must make application on a form provided by the director.
- C. Permit application requirements. A person who desires to obtain a permit shall submit to the director at the time of application the following:
1. A photocopy of the owner and/or manager's driver's license(s);
 2. Name(s) and title(s) of the individual(s) representing the business or corporation who have legal responsibility for insuring compliance with federal, state, and local laws;
 3. Business address and phone number of the legally responsible individual(s);
 4. Home address and phone number of the legally responsible individual(s);
 5. A certified statement that the above named individual(s) is/are responsible for insuring compliance with all applicable laws;
 6. A recent color photograph of the legally responsible individual(s); and
 7. The above information shall be submitted in the form of a sworn, notarized document.
- D. Other required permits. Transporters transporting hazardous wastes shall have the applicable federal and/or state permit and use the appropriate manifest system.
- E. Disposal sites. Each applicant shall specify the disposal site or sites to be used for the authorized disposal of liquid wastes. The permit holder shall notify the director in writing and obtain site approval prior to the addition of any disposal sites to be used during the permit period.

Sec. 41-44. Fee, display, and update of permit.

- A. Permit fee. To obtain a permit the applicant shall pay an annual permit fee, set annually by the director and adopted in the budget, for each vehicle the applicant owns and/or operates within the city. Each permit shall expire one (1) calendar year from the date it was issued.
- B. Display of permit numbers. Before operating a vehicle or causing a vehicle to be operated, the permit holder shall cause to be permanently displayed on each side of each vehicle in a

color contrasting with the background in three-inch letters or larger the business name, state registration number and the following:

IRV (permit number).

- C. The permit holder shall keep the permit, or a copy of it in the vehicle at all times.
- D. The owner/manager shall notify the director of any owner's/manager's employment changes during the permit period and shall provide the director a copy of any and all new owner and/or manager's driver's license(s) within ten (10) days of the employment change.
- E. The person who desires to obtain a permit or who has a permit shall update the permit application if and when any information contained within it changes, within ten (10) days of that change.

Sec. 41-45. Liquid waste vehicles--Maintenance.

A liquid waste transporter shall, for his or her vehicles:

- A. Maintain hoses tanks, valves, pumps cylinders, diaphragms, pipes, connections, and other appurtenances on each vehicle in good repair and free from leaks;
- B. Provide a safety plug or cap for each valve of each tank;
- C. Cause each vehicle exterior to be clean and the vehicle odor-free at the beginning of each work day; and
- D. Maintain each vehicle so that all the conditions required for permitting in this article are met at all times during the permit period.

Sec. 41-46. Liquid waste vehicles--Inspection.

A liquid waste transporter shall present each liquid waste vehicle for inspection by the director prior to the issuance of a vehicle permit. To pass inspections each vehicle shall have:

- A. A single tank as an integral portion of the vehicle to transport liquid wastes. Portable tanks or other containers temporarily installed in vehicles are prohibited and any vehicle with them shall not be permitted. Any vehicle that can have the storage tank removed without significant modifications (welding or metal cutting, for example) and that can be used for other purposes without significant modifications will not be permitted under this article;
- B. Piping, valves and connectors that are an integral portion of the tank and/or vehicle and are accessible and easy to clean;
- C. A liquid-tight tank;
- D. A tank constructed so that every interior and exterior portion can be easily cleaned;
- E. Piping, valves, and connections that are accessible and easy to clean;
- F. An inlet or opening of tank constructed so that collected waste will not spill during filling, transfer, or transport;
- G. Outlets of a design and type suitable for the liquid waste handled and capable of controlling flow or discharge without spillage, undue spray on, or flooding of immediate surroundings while in use, and all outlet connections constructed so that no liquid waste can leak, run, or spill out from the vehicle;
- H. Pumps, valves, cylinders, diaphragms and other appurtenances of design and type suitable for the type of waste handled; capable of operation without spillage, spray, or leakage; and capable of being easily disassembled for cleaning;

- I. A current, valid Texas motor vehicle inspection sticker;
- J. Current vehicle registration and valid Texas registration tags; and
- K. All parts and systems in a condition of repair such that the vehicle is road safe.

Sec. 41-47. Responsibilities of a liquid waste transporter.

- A. Determine nature of waste. Before accepting a load of liquid waste for transportation, a liquid waste transporter shall determine the nature of the material to be transported and insure that his or her equipment is sufficient to properly handle the job without spillage, leaks, or release of toxic or harmful gasses, fumes, liquids, or other substances. Upon delivery of the waste to the disposer, the transporter shall inform the disposer of the nature of the waste.
- B. Hazardous waste prohibited. A transporter with a city liquid waste transporter permit shall not transport hazardous waste in vehicles permitted by the city for transporting liquid waste.
- C. Disposal site. A transporter holding a city permit shall use a disposal site permitted and approved by the city, or other appropriate state or federal agency. A disposal site not permitted by the city must be approved by the director before a transporter may legally deliver to it liquid waste regulated by this chapter.
- D. Manifest system. A transporter shall use a manifest system, consisting of a four-part trip ticket, to document the generation site, transportation, and disposal of all applicable liquid waste generated in the city as follows:
 - 1. The transporter shall purchase the trip ticket books from the department for a fee determined annually by the director and adopted in the budget;
 - 2. A transporter shall legibly complete one (1) trip ticket for each location serviced. Portable toilet companies servicing their own units may submit a monthly report indicating the total volume disposed, location of job sites serviced, and location of disposal sites to the director in lieu of using trip tickets;
 - 3. The transporter and generator shall sign the white copy of each trip ticket at the time of waste collection, and the generator shall retain the yellow copy;
 - 4. The disposal site operator shall sign the white copy of each trip ticket at the time of disposal and retain the pink copy;
 - 5. The transporter shall retain the goldenrod copy of each trip ticket;
 - 6. The transporter shall deliver all completed trip ticket books containing the white copies of the trip tickets to the director within thirty (30) days after the use of the last trip ticket in the book. The term "use" includes voiding or losing a trip ticket;
 - 7. In the event a trip ticket book is not completed within three (3) months after purchase, the transporter shall deliver to the department the white copies of the trip tickets which are completed at the end of that same three-month period;
 - 8. Each of the parties receiving copies of trip tickets as outlined in this subsection shall retain and maintain them on file and on-site for inspection by the city and other regulatory agencies for a period of at least two (2) years from the latest date on the last used trip ticket in the book; and
 - 9. A person commits an offense if he or she does not properly and legibly complete an applicable trip ticket. The transporter is responsible for ensuring that all trip tickets are completely and accurately filled out, including obtaining the signature of the

generator and disposal site operator. The generator or disposal site operator commits an offense if he or she refuses to sign a trip ticket. If a generator has a city permit, the city may revoke that permit for any violation of this chapter. In addition, the director may revoke a disposal site's authority to receive all waste regulated by this chapter for any violation of this chapter.

- E. Trap cleaning. A transporter shall properly clean all waste traps by, as a minimum, removing the entire contents of the trap including all solids and liquids. Skimming the top or partial cleaning is prohibited.
- F. Permit revocation. The director may revoke the permit of any liquid waste transporter who fails to comply with this chapter.

Sec. 41-48. Accumulation of liquid waste.

It is an offense for any person to allow liquid waste that emits noxious or offensive odors or is unsanitary or injurious to public health to accumulate upon property under his or her control.

Sec. 41-49. Disposal of liquid waste.

- A. Approved waste disposal. It is an offense for any person to dispose, unload, offer for sale or exchange liquid waste, or allow liquid waste to remain at a place not approved by the city and permitted by the city or an appropriate state or federal agency.
- B. Unapproved disposal sites. It is an offense for any person to deposit or discharge liquid waste onto a street, into a storm or sanitary sewer, or to an area that may drain into the storm sewer system, a natural watercourse, or any area not approved as a waste disposal site by the city and permitted by the city or by an appropriate state or federal agency.
- C. Liquid waste disposal fee. A liquid waste transporter who transports septic tank or portable sanitation waste and disposes of this waste into the city's sanitary sewer system, after receiving approval from the director, shall pay for waste treatment as set forth in this chapter.

Sec. 41-50. Responsibilities of liquid waste generator.

- A. Waste disposal. A generator of liquid waste shall have all liquid waste material picked up from his or her premises only by a liquid waste transporter who holds a valid permit from the city and who shall transport it to an approved site for disposal.
- B. Hazardous waste. A generator of liquid wastes shall not allow or permit hazardous wastes or liquid waste in combination with hazardous waste to be removed from his premises by a liquid wastehauler operating a vehicle with a city permit. A generator shall not permit or allow hazardous waste to be removed from the generator's premises except by an operator and vehicle permitted by the appropriate state and/or federal agency for removal of hazardous waste.
- C. Signature required. A generator shall legibly sign the trip ticket provided by the transporter when a load is picked up by the transporter and shall keep a copy of all trip tickets for a period of at least two (2) years. The generator shall keep completed trip tickets on site. The director may inspect these records during normal business hours.
- D. A generator shall:

1. Install or provide collection devices of the size and type specified by the director;
2. Maintain collection devices in continuous, proper repair and operation including but not limited to pumping and cleaning them at appropriate intervals as approved by the director;
3. Supervise regular and proper cleaning of collection devices;
4. Report spills and accidents involving collection to director by the first city business day following the spill or accident; and
5. Clean up all spills and accidents immediately and have material disposed of by a permitted transporter by proper means.

Sec. 41-51. Responsibilities of liquid waste disposal site operators.

- A. Accumulation of waste. A liquid waste disposal site operator shall not allow accumulation of liquid waste on his or her premises so that rainfall could carry the material to storm sewers or adjacent property or so that it creates a noxious odor or health hazard.
- B. A liquid waste disposal site operator shall:
 1. Obtain approval from the director to receive waste generated in the city that is regulated by this chapter;
 2. Obtain and maintain compliance with all licenses and/or permits required by local, state, or federal law;
 3. Accept waste only from a permitted transporter;
 4. Maintain trip ticket copies for a period of at least two (2) years;
 5. Record on the trip ticket the volume, in gallons, of waste received;
 6. Accept only wastes in those classes authorized by his or her license or permit; and
 7. Make available all required records for inspection by the director during normal business hours.
- C. Approval revoked. A liquid waste disposal site operator who fails to comply with this chapter may have his or her approval to receive regulated waste from the city revoked by the director.

Sec. 41-52. Enforcement rules and regulations.

The director may promulgate rules and regulations as may be necessary to carry out the provisions of this article and protect the public from health and safety hazards. The director may undertake immediate actions as may be necessary to protect the public from health and safety hazards. The director may at any time amend any permit he or she issues to ensure compliance with applicable laws and regulations.

Sec. 41-53. Enforcement--Denial, suspension, revocation or expiration of permit.

- A. Permit denied. The director may deny a permit if he or she determines that an applicant is not qualified under this chapter or, if a permit is already issued, the director may suspend or revoke a permit if he or she determines that a permittee:
 1. Is not qualified under this article;
 2. Has violated a provision of this chapter;

3. Has failed to pay a required fee;
 4. Has failed to comply with maintenance or inspection requirements;
 5. If a liquid waste transporter, has failed to deliver completed trip ticket books on a timely basis to the director; or
 6. Has failed to properly fill out all required forms including, but not limited to, trip tickets.
- B. Reinstatement. A permittee may file a request for reinstatement of his or her suspended permit. The director may reinstate it if he or she determines:
1. That the permittee is again qualified;
 2. All violations have been corrected;
 3. Precautions have been taken to prevent future violations; and
 4. All required fees have been paid.
- C. Permit suspension. The director may suspend for a period of one (1) year or less a permit or any or all permits held by a permittee if the permittee or an employee of the permittee violates any applicable law.
- D. Permit revoked. The director may revoke a permit or any or all permits held by a permittee for violations of any applicable law which, in the opinion of the director, pose a serious risk to the public health or safety or for repeated suspensions. A permittee whose permit is expired, suspended, or revoked shall not collect, transport, dispose of, or accept any waste materials within the jurisdiction of the city.

Sec. 41-54. Appeal of suspension or revocation.

If the director denies the issuance of a permit, suspends a permit for longer than ninety (90) days, or revokes a permit, he or she may send to the applicant or permit holder by certified mail return receipt requested, written notice of his or her action and the right to an appeal. The applicant, or permit holder, may appeal the decision of the director to the city council. The decision of the director shall be effective unless and until it is reversed through the appeal process by the city council.

Sec. 41-55. Disposal of waste on private property.

If any liquid waste material regulated by this chapter is improperly disposed of, dumped or stored on private property, the owner of that property shall properly dispose of the waste material and clean up the contaminated area under one (1) of the following conditions:

- A. The person responsible for depositing the waste cannot be identified;
- B. The responsible person is identified, but refuses to clean up the property; or
- C. The responsible person has been identified, but the owner or other person who has control of the property where the violation exists refuses to allow access to the property for proper clean-up.

ARTICLE IX. MUNICIPAL DRAINAGE UTILITY SYSTEM

Sec. 41-56. Established.

- A. The city council finds it to be in the public interest to protect the public health and safety from loss of life and property caused by surface water overflows and surface water stagnation within the boundaries of the city and further finds that to protect such public interests:
 - 1. The city will establish a schedule of drainage charges against all real property in the city subject to charges under Sections 402.041, et seq. of Subchapter C of Chapter 402 of the Local Government Code, V.T.C.A.
 - 2. The city will provide drainage for all real property within the city on payment of drainage charges, except such real property which may be exempted therefrom as authorized by law; and
 - 3. The city will offer such drainage service on nondiscriminatory, reasonable and equitable terms.
- B. The Irving municipal drainage utility system is hereby established and declared to be a public utility. The city shall have full authority to operate such municipal drainage utility system pursuant to the authority given and contained under Article XI, Section 5, of the Texas Constitution, the Irving City Charter, and Sections 402.041 et seq., of Subchapter C of Chapter 402 of the Local Government Code, V.T.C.A. Sections 402.041 et seq., of Subchapter C of Chapter 402 of the Local Government Code, V.T.C.A., as now existing or as amended are adopted.
- C. The Irving City Council will, by ordinance, adopt rules for the operation and conduct of the Irving municipal drainage utility system, consistent with its authority and state law.
- D. Prior to the levy of any drainage charges for the financing and funding of the Irving municipal drainage utility system, the Irving City Council shall hold a public hearing on such charges pursuant to state law.

Sec. 41-57. Schedule of drainage charges.

- A. The director shall annually recommend a schedule of drainage charges and the city may adopt it in the budget and levy them against all real property lying within the City of Irving, Texas that is subject to drainage charges under Subchapter C of Chapter 402 of the Texas Local Government Code.
- B. All bills for drainage utility charges are due and must have been received before 5:00 p.m. on the date shown on the bill in the city customer service office. If not, the city shall assess a penalty set annually by the director and adopted in the budget. The due date is fifteen (15) days from the date bills were mailed, and is the date shown on the bill.
- C. Unpaid bills:
 - 1. The city will discontinue water service to any customer whose bill has an unpaid balance for water, drainage, sewer and/or garbage and is thirty (30) days or longer overdue. Unless a dangerous condition exists or the public health is threatened as determined by the director after notice to the city manager or unless the customer request disconnection, service shall not be discontinued on a day, or on a day immediately preceding a day when personnel of the city are not available to the public for the purpose of making collections and reconnecting service.
 - 2. Service will be resumed to any person, firm, corporation, or customer whose service has been discontinued upon payment of the overdue bill, plus the assessed penalty,

plus an additional amount to cover the cost of disconnecting and resuming service set annually by the director and adopted in the budget.

- D. The city council may change, adjust and readjust the rates and charges established for drainage services by ordinance.
- E. The city council may, by ordinance, adopt rules for the operation and conduct of the Irving municipal drainage utility system, including exemptions, if any, from the drainage charges levied in it, consistent with its authority and state law.

ARTICLE X. MUNICIPAL STORMWATER DRAINAGE REGULATIONS AND ACTS ADVERSELY AFFECTING WATER QUALITY

Sec. 41-58. Purposes.

The purposes and objectives of this article are as follows:

- A. To maintain and improve the quality of surface water and groundwater within the city.
- B. To prevent the discharge of contaminated stormwater runoff from industrial, commercial, residential, and construction sites into the municipal separate storm sewer system (MS4) and natural waters within the city.
- C. To promote public awareness of the hazards involved in the improper discharge of hazardous substances, petroleum products, household hazardous waste, industrial waste, sediment from construction sites, pesticides, herbicides, fertilizers, and other contaminants into the storm sewers and natural waters of the city.
- D. To encourage recycling of used motor oil and safe disposal of other hazardous consumer products.
- E. To facilitate compliance with state and federal standards and permits by owners and operators of industrial and construction sites within the city.
- F. To enable the city to comply with all federal and state laws and regulations applicable to stormwater discharges.

Sec. 41-59. Administration.

Except as otherwise provided, the director shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the director may be delegated by the director to other city personnel.

Sec. 41-60. Abbreviations.

The following abbreviations when used in this article mean:

BMP	--	Best Management Practices
BTEX	--	Benzene, Toluene, Ethylbenzene, and Xylene
CFR	--	Code of Federal Regulations
EPA	--	U.S. Environmental Protection Agency
HHW	--	Hazardous Household Waste
mg/l	--	Milligrams per liter
MS4	--	Municipal Separate Storm Sewer System

NOI	--	Notice of Intent
NOT	--	Notice of Termination
ppb	--	Parts per billion
PST	--	Petroleum Storage Tank
RLA	--	Registered Landscape Architect
RPE	--	Registered Professional Engineer
SWPPP		Stormwater Pollution Prevention Plan
TPDES		Texas Pollutant Discharge Elimination System
TPH	--	Total Petroleum Hydrocarbons
USC	--	United States Code

Sec. 41-61. General prohibition.

- A. No person shall introduce or cause to be introduced into the municipal separate storm sewer system (MS4) any discharge that is not composed entirely of stormwater.
- B. It is an affirmative defense to subsection (a) of this section that the discharge was composed entirely of one (1) or more of the following categories of discharges:
 1. A discharge authorized by, and in full compliance with, an NPDES permit (other than the NPDES permit for discharges from the MS4);
 2. A discharge or flow resulting from fire fighting by the fire department;
 3. A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials that the Uniform Fire Code as adopted and amended by this Code requires to be contained and treated prior to discharge, in which case treatment adequate to remove harmful quantities of pollutants must have occurred prior to discharge;
 4. Agricultural stormwater runoff;
 5. A discharge or flow from water line flushing, but not including a discharge from water line disinfection by superchlorination or other means unless the discharge contains no harmful quantity of any chemical used in line disinfection;
 6. A discharge or flow from lawn watering, or landscape irrigation;
 7. A discharge or flow from a diverted stream flow or natural spring;
 8. A discharge or flow from uncontaminated pumped groundwater or rising groundwater;
 9. Uncontaminated groundwater infiltration (as defined as 40 C.F.R. § 35.2005(20)) to the MS4;
 10. Uncontaminated discharge or flow from a foundation drain, crawl space footing drain, or sump;
 11. A discharge or flow from a potable water source not containing any harmful substance or material from the cleaning or draining of a storage tank or other container;
 12. A discharge or flow from air conditioning condensation that is unmixed with water from a cooling tower, emissions scrubber, emissions filter, or any other source of pollutant;
 13. A discharge or flow from individual residential car washing;
 14. A discharge or flow from a riparian habitat or wetland;

15. A discharge or flow from water used in street washing that is not contaminated with any soap, detergent, degreaser, solvent, emulsifier, dispersant, or any other harmful cleaning substance;
 16. Stormwater runoff from a roof that is not contaminated by any runoff or discharge from an emissions scrubber, filter, or any other source of pollutant;
 17. Swimming pool water that contains no harmful quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning.
 18. A discharge of flow from a temporary car wash sponsored by a civic group, school, religious, or nonprofit organization.
- C. No affirmative defense is available under subsection (b) of this section if the discharge or flow in question has been determined by the director to be a source of a pollutant or pollutants to the waters of the United States or to the MS4, written notice of that determination has been provided to the discharger, and the discharge has occurred more than fifteen (15) days beyond the notice. The correctness of the director's determination that a discharge is a source of a pollutant or pollutants may be reviewed in any administrative or judicial enforcement proceeding.

Sec. 41-62. Specific prohibitions and requirements.

- A. The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by this chapter.
- B. No person shall introduce or cause to be introduced into the MS4 any discharge that causes or contributes to causing the city to violate a water quality standard, the city's NPDES permit, or any state-issued discharge permit for discharges from its MS4.
- C. No person shall dump, spill, leak, pump, pour, emit, empty, discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into the MS4:
 1. Any used motor oil, antifreeze, or any other motor vehicle fluid;
 2. Any industrial waste;
 3. Any hazardous waste, including hazardous household waste;
 4. Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;
 5. Any garbage, rubbish, or yard waste;
 6. Any wastewater from a commercial carwash facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus or heavy equipment, by a business or public entity that operates more than two (2) such vehicles;
 7. Any wastewater from washing, cleaning, de-icing, or other maintenance of aircraft;
 8. Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;
 9. Any wastewater from commercial floor, rug, or carpet cleaning;

10. Any wastewater from the washdown or other cleaning of pavement that contains any harmful quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the washdown or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all harmful quantities of the released material have been previously removed;
 11. Any effluent from a cooling tower condenser, compressor, emissions scrubber, emissions filter or the blowdown from a boiler;
 12. Any commercial runoff or washdown water from any animal pen, kennel or fowl or livestock containment area;
 13. Any filter backwash from a swimming pool or fountain;
 14. Any swimming pool water containing any harmful quantity of chlorine, muriatic acid, or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
 15. Any discharge from water line disinfection by superchlorination or other means if the total residual chlorine it contains any harmful quantity of chlorine or any other chemical used in line disinfection;
 16. Any fire protection water containing oil or hazardous substances or materials that the Fire Code in this Code requires to be contained and treated prior to discharge, unless treatment adequate to remove pollutants occurs prior to discharge. (This prohibition does not apply to discharges or flow from fire fighting by the fire department.);
 17. Any water from a water curtain in a spray room used for painting vehicles or equipment;
 18. Any contaminated runoff from a vehicle wrecking yard;
 19. Any substance or material that will damage, block, or clog the MS4;
 20. Any release from a petroleum storage tank (PST); any leachate or runoff from soil contaminated by a leaking PST; or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release unless the discharge:
 - a. Is in compliance with all state and federal standards and requirements; and
 - b. Does not contain a harmful quantity of any pollutant;
- D. No person shall introduce or cause be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil or other material associated with clearing, grading, excavation, or other construction activities in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable.
- E. No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4, or allow such a connection to continue.
- F. No person shall cause or allow any pavement washwater from a service station to be discharged into the MS4 unless such washwater has passed through a properly functioning and maintained, grease, oil, and sand interceptor before discharge into the MS4.
- G. Regulation of pesticides, herbicides, and fertilizers.
1. Any sale, distribution, application, labeling, manufacture, transportation, storage, or disposal of a pesticide, herbicide, or fertilizer must comply fully with all state and federal statutes and regulations including, without limitation, the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and all federal regulations promulgated pursuant to FIFRA; Chapters 63, 75, and 76 of the Texas Agriculture Code and all

state regulations promulgated pursuant to it; and any other state or federal requirement.

2. Any license, permit, registration certification, or evidence of financial responsibility required by state or federal law for sale, distribution, application, manufacturer transportation, storage, or disposal of a pesticide herbicide or fertilizer must be presented to the director or his/her delegate and any city law enforcement officer for examination upon request.
3. No person shall use or cause to be used any pesticide or herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation.
4. No person shall use or cause to be used any pesticide, herbicide, or fertilizer in any manner that the person knows or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide, herbicide, or fertilizer to enter the MS4 or waters of the United States.
5. No person shall dispose of, discard, store, or transport a pesticide, herbicide, or fertilizer or a pesticide, herbicide, or fertilizer container in a manner that the person knows or reasonably should know is likely to cause or does cause a harmful quantity of the pesticide, herbicide or fertilizer to enter the MS4 or waters of the United States.

H. Used-oil regulation.

1. No person shall:
 - a. Discharge used oil into the MS4 or a sewer, drainage system, septic tank, surface water, groundwater, or water course:
 - b. Knowingly mix or commingle used oil with solid waste that is to be disposed of in a landfill or knowingly directly dispose of used oil on land or in a landfill;
 - c. Apply used oil to a road or land for dust suppression, weed abatement, or other similar use that introduces used oil into the environment.
2. All businesses that change motor oil for the public, municipal waste landfills are encouraged to serve as public used oil collection centers as provided by state statute in Section 371.024 of the Texas Health & Safety Code.

I. Erosion control. It is unlawful for any person having control of real property in the city to suffer or permit soil, rock, mud, or debris to wash, slide, or otherwise be moved from the real property onto any adjacent property, street, alley, utility facility, right-of-way, or easement through erosion. Any person in control of real property shall:

1. Prevent soil, mud, rock, or debris from being deposited on or transported through erosion to any adjacent property, street, alley, utility facility, right-of-way, or easement;
2. Inspect the property and acquaint himself or herself with the conditions existing; and
3. Remedy any condition that might allow soil, mud, rock, or debris to wash, slide, or otherwise be transported to any adjacent property, street, alley, utility facility, right-of-way, or easement through erosion.

Sec. 41-62.1. Permit required.

No person shall perform or permit any other person to perform earthwork within the city without first having secured a permit for it. It is an affirmative defense to the permit requirement of this section that the earthwork is proposed on a lot smaller than one acre which is developed with an existing single family residence or that the earthwork is being performed in conformance with all applicable grading, erosion control and stormwater discharge regulations, pursuant to a previously obtained and currently active building permit. The lack of a requirement for a earthwork permit under this section shall not act as an exemption from any regulation, including grading, erosion control or stormwater discharge regulations, for activity that would otherwise be subject to such regulation.

Sec. 41-62.2. Permit application and process.

- A. An applicant for an earthworks permit shall submit to the director:
 - 1. If not the property owner, a statement from the property owner giving permission for the applicant to perform earthwork and erosion control on the property and a statement from the property owner that he or she understands and accepts the responsibilities of any person in control of real property in this chapter;
 - 2. A copy of an approved EPA stormwater permit for any work that may disturb five (5) or more acres of land accompanied by a stormwater prevention plan prepared by a registered engineer;
 - 3. Two (2) sets of plans and specifications drawn to scale; of sufficient clarity to indicate the nature and extent of the work proposed and to show in detail that the work will comply with all applicable law; giving the location of the proposed work, the name and address of the property owner, and the name and address of the person by whom they were prepared; and including:
 - a. Proposed construction and material requirements for the proposed earthwork and erosion control;
 - b. General vicinity of the proposed site;
 - c. Property limits and accurate contours of existing ground and details of terrain and area drainage;
 - d. Limiting dimensions, elevations, or finish contours to be achieved by the proposed grading, drainage channels, and related construction;
 - e. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, and other protective devices to be constructed with or as part of the proposed work;
 - f. A map showing the drainage area and the estimated runoff of the area served by any existing or proposed drains;
 - g. The location of buildings and structures on the property; and
 - h. The location of any tree on the property protected by the City of Irving Comprehensive Zoning Ordinance section 52-35a, Landscaping and Tree Preservation.
 - 4. A completed application on a form supplied by the department.

Sec. 41-62.3. Permit fee.

Each applicant for an earthworks permit shall pay a nonrefundable thirty-five dollar (\$35.00) fee for each permit for which he or she applies.

Sec. 41-62.4. Notification of completion.

Any person who has an earthworks permit shall notify the department when the grading operation is ready for final inspection. The director will not approve the work unless all work, including installation of all drainage facilities and their protective devices and all erosion control measures are completed in compliance with the final approved grading plan and the permittee has submitted any required reports.

Sec. 41-62.5. Topsoil requirements.

- A. No person shall place fill on a site without:
 - 1. Leveling it and having a final cover of topsoil of a minimum depth of six (6) inches that will support vigorous plant growth immediately following the completion of filling operations;
 - 2. Leveling and covering it intermediately at intervals not to exceed thirty (30) days for filling operations that exceed thirty (30) days in duration.
- B. It is an affirmative defense to this section that the director has approved substitution of an alternative cover that is resistant to erosion.

Sec. 41-62.6. Erosion control required.

No person shall place fill on a site without preparing and maintaining the faces of cut and fill slopes to control against erosion with effective planting, check dams, cribbing, riprap, or other devices and methods as necessary as soon as is practicable and before calling for an inspection for final approval. It is an affirmative defense to this section that the cut slopes are not subject to erosion due to the erosion-resistant character of the materials.

Sec. 41-62.7. Responsibility for cleanup.

- A. The property owner shall ensure that all cleanup operations incidental to the earthwork on the property including but not limited to leveling, establishment of ground cover, erosion control, and removal of all trash and other materials not suitable for fill including those deposited on streets, alleys, utility facilities, rights-of-way, and easements are completed and maintained.
- B. If the property owner violates this section in any way, after 10 days after the city gives the property owner written notice that he or she is in violation of this section the city may remove all soil, rock, debris, and other materials deposited on streets, alleys, utility facilities, rights-of-way, and easements and bill the owner for the work. If the owner fails to pay the bill within thirty (30) days after the city sends it, the city may place a lien on the owner's property.

Sec. 41-63. Release reporting and cleanup.

- A. The person in charge of any facility, vehicle, or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing, or any other release of any of the following quantities of any of the following substances that may flow, leach, enter, or otherwise be introduced into the MS4 or waters of the United States, shall immediately telephone and notify either fire or police concerning the incident:
1. An amount equal to or in excess of a reportable quantity of any hazardous substance, as established under 40 CFR Part 302;
 2. An amount equal to or in excess of a reportable quantity of any extremely hazardous substance, as established under 40 CFR Part 355;
 3. An amount of oil that either (a) violates applicable water quality standards, or (b) causes a film or sheen upon or discoloration of the surface of the water or an adjoining shoreline or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining shoreline; or
 4. Any harmful quantity of any pollutant.
- B. The immediate notification required by subsection (a) shall include the following information:
1. The identity or chemical name of the substance released, and whether the substance is an extremely hazardous substance;
 2. The exact location of the release including any known name of the waters involved or threatened and any other environmental media affected;
 3. The time and duration (thus far) of the release;
 4. An estimate of the quantity and concentration (if known) of the substance released;
 5. The source of the release;
 6. Any known or anticipated health risks associated with the release and, where appropriate, advice regarding medical attention that may be necessary for exposed individuals;
 7. Any precautions that should be taken as a result of the release;
 8. Any steps that have been taken to contain and/or clean up the released material and minimize its impacts; and
 9. The names and telephone numbers of the person or persons to be contacted for further information.
- C. Within fifteen (15) days following such release, the responsible person in charge of the facility, vehicle or other source of the release shall, unless waived by both the director and the fire chief, submit a written report containing each of the items of information specified above in subsection (b), as well as the following additional information:
1. The ultimate duration, concentration, and quantity of the release;
 2. All actions taken to respond to, contain, and clean up the released substances, and all precautions taken to minimize the impacts;
 3. Any known or anticipated acute or chronic health risks associated with the release;
 4. Where appropriate, advice regarding medical attention necessary for exposed individuals;
 5. The identity of any governmental/private sector representatives responding to the release; and

6. The measures taken or to be taken by the responsible person(s) to prevent similar future occurrences.
- D. The notifications required by subsections (b) and (c) above shall not relieve the responsible person of any expense, loss, damage, or other liability which may be incurred as a result of the release, including any liability for damage to the city, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person of any fine, penalty, or other liability which may be imposed pursuant to this article or to state or federal law.
 - E. Any person responsible for any release as described in subsection (a) above shall comply with all state, federal, and any other local law requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release.
 - F. Any person responsible for a release described in subsection (a) above shall reimburse the city for any cost incurred by the city in responding to the release.

Sec. 41-64. Stormwater discharges--From construction activities.

General requirements.

- A. All operators of construction sites shall use best management practices to control and reduce the discharge, to the MS4 and to waters of the United States, of sediment, silt, earth, soil, and other material associated with the clearing, grading, excavation, and other construction activities to the maximum extent practicable. Such best management practices may include, but not be limited to, the following measures:
 1. Ensuring that existing vegetation is preserved where feasible and that disturbed portions of the site are stabilized as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased. Stabilization measures may include: temporary seeding, permanent seeding, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures;
 2. Use of structural practices to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from the site to the extent feasible;
 3. Minimization of the tracking of sediments off-site by vehicles, the generation of dust, and the escape of other windblown waste from the site;
 4. Prevention of the discharge of building materials, including cement, lime, concrete, and mortar, to the MS4 or waters of the United States;
 5. Providing general good housekeeping measures to prevent and contain spills of paints, solvents, fuels, septic waste, and other hazardous chemicals and pollutants associated with construction, and to assure proper cleanup and disposal of any such spills in compliance with state, federal, and local requirements;
 6. Implementation of proper waste disposal and waste management techniques, including covering waste materials and minimizing ground contact with hazardous chemicals and trash;
 7. Timely maintenance of vegetation, erosion and sediment control measures, and other best management practices in good and effective operating condition; and

8. Installation of structural measures during the construction process to control pollutants in stormwater discharges that will occur after construction operations have been completed. Structural measures should be placed on upland soils to the degree attainable. Such installed structural measures may include, but are not limited to, the following: stormwater detention structures (including wet ponds); stormwater retention structures; flow attenuation by use of open vegetative swales and natural depressions; other velocity dissipation devices; infiltration of runoff on site; and sequential systems which combine several practices. Operators of construction sites are only responsible for the installation and maintenance of stormwater management measures prior to final stabilization of the site, and are not responsible for maintenance after stormwater discharges associated with construction activity have terminated.
- B. Qualified personnel (provided by the operator of the construction site) shall inspect disturbed areas of any construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every seven (7) calendar days and within twenty-four (24) hours of the end of a storm that is 0.5 inches or greater. Construction site operators shall observe all erosion and sediment control measures and other identified best management practices be in order to ensure that they are operating correctly and are effective in preventing significant impacts to receiving waters and the MS4. Based on the results of the inspection, best management practices shall be revised as appropriate, and as soon as is practicable.
- C. The director may require any plans and specifications that are prepared for the construction of site improvements to illustrate and describe the best management practices required by section 4168(a)(1) above that will be implemented at the construction site. The city may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other city approval necessary to commence or continue construction, or to assume occupancy, on the grounds that the management practices described in the plans or observed upon a site inspection by the director are determined not to control and reduce the discharge of sediment, silt, earth, soil, and other materials associated with clearing, grading, excavation, and other construction activities to the maximum extent practicable.
- D. Any owner of a site of construction activity, whether or not he/she is an operator, is jointly and severally responsible for compliance with the requirements in this section.
- E. Any contractor or subcontractor on a site of construction activity, who is not an owner or operator, but who is responsible under his/her contract or subcontract for implementing a best management practices control measure, is jointly and severally responsible for any willful or negligent failure on his/her part to adequately implement that control measure if the failure causes or contributes to causing the city to violate a water quality standard, the city's NPDES permit, or any state-issued discharge permit for discharges from its MS4.
- F. Five-acre disturbances. All operators of sites of construction activity, including clearing, grading, and excavation activities, that result in the disturbance of five (5) or more acres of total land area, or that are part of a common plan of development or sale within which five (5) or more acres of total land area are disturbed, or who are required to obtain an NPDES permit for stormwater discharges associated with construction activity, or that the director determines to be harmful quantities, shall comply with the following requirements:

- G. Any operator who intends to obtain coverage for stormwater discharges from a construction site under the NPDES general permit for stormwater discharges from construction sites ("the construction general permit") shall submit a signed copy of its notice of intent (NOI) to the director at least two (2) days prior to the commencement of construction activities. If the construction activity is already underway upon the effective date of this article, the NOI shall be submitted within thirty (30) days. For stormwater discharges from construction sites where the operator changes, an NOI shall be submitted at least two (2) days prior to when the operator commences work at the site.
- H. A Stormwater Pollution Prevention Plan (SWPPP) shall be prepared and implemented in compliance with the requirements of the construction general permit or any individual or group NPDES permit issued for stormwater discharges from the construction site, and with any additional requirement imposed by or under this article.
- I. The SWPPP shall be prepared, signed and sealed by a registered professional engineer.
- J. The SWPPP shall be completed prior to the submittal of the NOI to the director and, for new construction, prior to the commencement of construction activities. The SWPPP shall be updated and modified as appropriate and as required by the construction general permit and this article.
- K. The applicant shall submitted a copy of any required NOI to the city in conjunction with any application for a building permit, grading permit, site development plan approval, and any other city approval necessary to commence or continue construction at the site.
- L. The director may require any operator who is required to prepare a SWPPP to submit the SWPPP, and any modifications to it, to the director for review. Such submittal and review of the SWPPP may be required by the director prior to commencement of or during construction activities at the site.
- M. Upon the director review of the SWPPP and any site inspection that he/she may conduct, the city may deny approval of any building permit, grading permit, subdivision plat, site development plan, or any other city approval necessary to commence or continue construction, or to assume occupancy, on the grounds that the SWPPP does not comply with the requirements of the construction general permit, any individual or group NPDES permit issued for stormwater discharge from the construction site, or any additional requirement imposed by or under this article.
- N. Any significant modification to the SWPPP shall be prepared, signed, and sealed by a registered professional engineer as required for the original SWPPP.
- O. All contractors and subcontractors identified in an SWPPP shall sign a copy of the following certification statement before conducting any professional service identified in the SWPPP:
 "I certify under penalty of law that I understand the terms and conditions of the National Pollutant Discharge Elimination System (NPDES) permit that authorizes the stormwater discharges associated with industrial activity from the construction site identified as part of this certification, with the Stormwater Article X, Chapter 41 of the Code of Civil and Criminal Ordinances of the City of Irving, and with those provisions of the Stormwater Pollution Prevention Plan (SWPPP) for the construction site for which I am responsible."
 The certification must include the name and title of the person providing the signature; the name, address, and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

- P. The SWPPP, with the registered professional engineers signature and seal affixed, and the certifications of contractors and subcontractors, and with any modifications attached, shall be retained at the construction site from the date of commencement of construction through the date of final stabilization.
- Q. The operator shall make the SWPPP and any modification to it available to the director upon request.
- R. The director may notify the operator at any time that the SWPPP does not meet the requirements of the construction general permit, any applicable individual or group NPDES permit issued for stormwater discharges from the construction site, or any additional requirement imposed by or under this article. Such notification shall identify those provisions of the permit or this article which are not being met by the SWPPP, and identify which provisions of the SWPPP require modifications in order to meet such requirements. Within seven (7) days of notification from the director (or as otherwise provided by the director), the operator shall make the required changes to the SWPPP and shall submit to the director a written certification that the requested changes have been made.
- S. The operator shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance which has a significant effect on the potential for the discharge of pollutants to the MS4 or to the waters of the United States, and which has not otherwise been addressed in the SWPPP, or if the SWPPP proves to be ineffective in eliminating or significantly minimizing pollutants, or in otherwise achieving the general objective of controlling pollutants in stormwater discharges associated with construction activity. In addition the operator shall amend the SWPPP to identify any new contractor and/or subcontractor that will implement a measure in the SWPPP.
- T. Qualified personnel (provided by the operator of the construction site) shall inspect disturbed areas of the construction site that have not been finally stabilized, areas used for storage of materials that are exposed to precipitation, structural control measures, and locations where vehicles enter or exit the site, at least once every seven (7) calendar days and within twenty-four (24) hours of the end of a storm that drops precipitation 0.5 inches or greater at the site. Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Erosion and sediment control measures identified in the SWPPP shall be observed to ensure that they are operating correctly. Where discharge locations or points are accessible, they shall be inspected to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters or the MS4. Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.
- U. Based on the results of the inspections required by section 41-68(b)(14), the site description and/or the pollution prevention measures identified in the SWPPP shall be revised as appropriate, but in no case later than seven (7) calendar days following the inspection. Such modifications shall provide for timely implementation of any changes to the SWPPP within seven (7) calendar days following the inspection.
- V. A report summarizing the scope of any inspection required by section 41-68(b)(14), and the name(s) and qualifications of personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken in compliance with this article shall be made and retained as part of the SWPPP for at least three (3) years from the date that the site is finally stabilized. The report shall identify any

incidence of noncompliance. Where a report does not identify any incidence of noncompliance, the report shall contain a certification that the facility is in compliance with the SWPPP, the facility's NPDES permit, and this article. The person responsible for, making the report shall certify and sign it.

- W. The operator shall retain copies of any SWPPP and all reports required by this article or by the NPDES permit for the site, and records of all data used to complete the NOI, for a period of at least three (3) years from the date that the site is finally stabilized.
- X. Where a site has been finally stabilized and all stormwater discharges from construction activities that are authorized by this article and by the NPDES permit for those construction activities are eliminated, or where the operator of all stormwater discharges at a facility changes, the operator of the construction site shall submit to the director a notice of termination (NOT) that includes the information required for Notices of Termination by Part VIII of the construction general permit.

Sec. 41-65. Same--Associated with industrial activity.

- A. All operators of (1) municipal landfills; (2) hazardous waste treatment, disposal and recovery facilities; (3) industrial facilities that are subject to Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42, USC § 11023; and (4) industrial facilities that the director determines are contributing a substantial pollutant loading to the MS4, which are sources of stormwater discharges associated with industrial activity, shall comply with the following requirements:
 - 1. Any operator who intends to obtain coverage for stormwater discharge associated with industrial activity under the NPDES general permit for stormwater discharges associated with industrial activity ("the industrial general permit") shall submit a signed copy of its notice of intent (NOI) to the director at least two (2) days prior to the commencement of the industrial activity at the facility. If industrial activity is already underway upon the effective date of this article, the NOI shall be submitted within thirty (30) days. Where the operator of a facility with a stormwater discharge associated with industrial activity which is covered by the industrial general permit changes, the new operator of the facility shall submit an NOI at least two (2) days prior to the change.
 - 2. A Stormwater Pollution Prevention Plan (SWPPP) shall be prepared and implemented in compliance with the requirements of the industrial general permit or any individual or group NPDES permit issued for stormwater discharges from the industrial facility, and with any additional requirement imposed by or under this article and any other city ordinance.
 - 3. A registered professional engineer shall prepare, sign, and seal the SWPPP.
 - 4. The operator shall complete the SWPPP prior to the submittal of the NOI to the director and, for a new industrial operation, prior to the commencement of the industrial activity at the facility. The operator shall update and modify the SWPPP as appropriate and as required by the industrial general permit and this article.
 - 5. The operator shall submit a copy of any NOI that is required by this article to the city in conjunction with any application for a permit or any other city approval necessary to commence or continue operation of the industrial facility.

6. The director may require any operator who is required to prepare a SWPPP to submit the SWPPP, and any modifications to it, to the director for review. The director may require submittal and review of the SWPPP prior to commencement of or during industrial activity at the facility.
7. Upon the director review of the SWPPP and any site inspection that he/she may conduct, the city may deny approval of any application for a permit or any other city approval necessary to commence or continue operation of the facility, on the grounds that the SWPPP does not comply with the requirements of the industrial general permit, any individual or group NPDES permit issued for stormwater discharges from the industrial facility, or any additional requirement imposed by or under this article.
8. A registered professional engineer shall prepare, sign and seal any significant modification to the SWPPP.
9. The operator shall retain the SWPPP, with the registered professional engineer's signature and seal affixed, and with any modifications attached, at the industrial facility from the date of commencement of operations until all stormwater discharges associated with industrial activity at the facility are eliminated and he or she has submitted the required notice of termination (NOT).
10. The operator shall make the SWPPP and any modification to it available to the director upon request.
11. The director may notify the operator at any time that the SWPPP does not meet the requirements of the industrial general permit, any applicable individual or group NPDES permit issued for stormwater discharges from the industrial facility, or any additional requirement imposed by or under this article. The notification shall identify those provisions of the permit or article which are not being met by the SWPPP, and identify which provisions of the SWPPP require modifications in order to meet the requirements. Within thirty (30) days of notification from the director (or as otherwise provided by the director), the operator shall make the required changes to the SWPPP and shall submit to the director a written certification that the requested changes have been made.
12. If the industrial facility is required by Part VI.B.2 of the industrial general permit to conduct semi-annual monitoring, the operator shall submit a signed copy of each semi-annual monitoring report prepared in compliance with Part VI.D. to the director.
13. If the industrial facility is required by Part VI.B.3 of the industrial general permit to conduct annual monitoring, the operator shall retained records of the monitoring results at the facility and make them available to the director upon request. The operator shall prepare a written report of the annual monitoring and submit it to the director if expressly required to do so by the director.
14. By written notice, the director may require any industrial facility identified in compliance with this section to implement a monitoring program that includes the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES permit for the facility; oil and grease, COD, pH, BOD5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information

- on discharges required under 40 C.F.R. 122.21(g)(7)(iii) and (iv). The director may require written reports of any monitoring to be submitted to him/her.
15. By written notice, the director may require any industrial facility identified in this section to conduct semi-annual or annual monitoring of stormwater discharges, or the director may specify an alternative monitoring frequency and/or specify additional parameters to be analyzed. The director may require written reports of any such additional monitoring to be submitted to him/her.
 16. The operator shall retain the SWPPP until at least one (1) year after stormwater discharges associated with industrial activity at the facility are eliminated, or after that operator is no longer operating the facility, and after submitting a notice of termination (NOT) in compliance with this article. The operator shall retain all records of all monitoring information, copies of all required reports, and records of all data used to complete the NOI, until at least one (1) year after all stormwater discharges associated with industrial activity at the facility are eliminated, or after the operator ceases to operate that facility, and after the operator has submitted the required notice of termination (NOT).
 17. For discharges subject to the semiannual or annual monitoring requirements of Part VI.B. of the industrial general permit, in addition to the records-retention requirements of the paragraph above, operators shall to retain for a six-year period from the date of sample collection, records of all monitoring information collected. Operators shall submit monitoring results, and/or a summary of them, to the director upon his/her request.
 18. Where all stormwater discharges associated with industrial activity that are authorized by this article, and by the NPDES permit for those discharges from industrial activities are eliminated, or where the operator of stormwater discharges associated with industrial activity at a facility changes, the operator of the facility shall submit to the director a notice of termination (NOT) that includes the information required for notices of termination by Part IX of the industrial general permit.
- B. Any owner of a facility with a stormwater discharge associated industrial activity to which subsection (a) applies, whether or not he/she is an operator of the facility, is jointly and severally responsible for compliance with the best management practices (BMP) measures required in the SWPPP for the facility.
 - C. Upon request by the director, all owners and operators of any facility that experiences a problem complying with the requirements of this article, the industrial general permit, or any applicable individual or group NPDES permit issued for stormwater discharges from the industrial facility, shall consult with the director, any other representative of the city, and any third party designated by the city in an attempt to achieve compliance as soon as practicable. If compliance is not achieved to the city's satisfaction, the city may, in its discretion, report the noncompliance to EPA and/or the state, and/or the city may itself undertake any enforcement action as authorized by this article. Exercise of the city's option for consultation is not a bar against, or prerequisite for, taking any other enforcement action against any owner or operator of the facility.

Sec. 41-66. Compliance monitoring.

- A. Right of entry; inspection and sampling. The director may enter the premises of any person discharging stormwater to the municipal separate storm sewer system (MS4) or to waters of the United States to determine whether the discharger is complying with all requirements of this article and with any state or federal discharge permit, limitation, or requirement. Dischargers shall allow the director ready access to all parts of the premises for the purposes of inspection, sampling, records examination, copying, and for performing any additional duties. Dischargers shall make available to the director, upon request, any SWPPPs, modifications to them, self-inspection reports, monitoring records, compliance evaluations, notices of intent, and any other records, reports, and other documents related to compliance with this article and with any state or federal discharge permit.
1. Where a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make necessary arrangements with its security system so that, upon presentation of suitable identification, the director will be permitted to enter without delay for the purposes of performing his/her responsibilities.
 2. The director may set up on the discharger's property, or require installation of such devices as are necessary to conduct sampling and/or metering of the discharger's operations.
 3. The director may require any discharger to the MS4 or waters of the United States to conduct specified sampling, testing, analysis, and other monitoring of its stormwater discharges and may specify the frequency and parameters of any required monitoring.
 4. The director may require the discharger to install monitoring equipment as necessary at the discharger's expense. The discharger shall maintain the facility's sampling and monitoring equipment be at all times in a safe and proper operating condition at its own expense. The discharger shall calibrate all devices used to measure stormwater flow and quality to ensure their accuracy.
 5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the discharger at the written or verbal request of the director and shall not be replaced. The costs of clearing such access shall be borne by the discharger.
 6. Unreasonable delays in allowing the director access to the discharger's premises are a violation of this article.
- B. Search warrants. If the director has been refused access to any part of the premises from which stormwater is discharged and he/she is able to demonstrate probable cause to believe that there may be a violation of this article or any state or federal discharge permit, limitation, or requirement, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this article or any order issued under it, or to protect the overall public health, safety, and welfare of the community, the director may seek a search warrant from any court of competent jurisdiction.

Sec. 41-67. Acts adversely affecting water quality.

It is unlawful for any person to:

- A. Maintain grease and sand traps in any automotive center, service station, vehicle maintenance center or vehicle wash operation which is not connected to the sanitary sewer.
- B. Wash more than two (2) vehicles per twenty-four-hour period without the waste effluent being trapped and placed in the sanitary sewer.
- C. Wash aircraft without the waste effluent being trapped and placed in the sanitary sewer.
- D. Dump grass clippings, leaves, brush or any rubbish or debris to the curb, gutter, storm inlet, storm drain or water course.
- E. Permit crankcase draining, drainage from engine oil filters, vehicle engine wash, or other oils or oily substances, greases, or like material to go to or remain in or on any area that may drain to the storm system or water courses.
- F. Deposit liquid waste, semi-liquid waste, or chemical waste in any area that may drain to the storm system or water courses or dispose of them at any site other than one approved for that purpose.
- G. Permit cooling tower, compressor, or boiler blowdown water that is not clean, untreated water to flow to the storm system or water courses.
- H. Permit water from nurseries which is used to water plants to flow to streets and alleys to the extent that a nuisance may be created by standing water, damage may result to streets or alleys, or the free passage of foot traffic may be affected.
- I. Permit waste water resulting from floor cleaning, rug and carpet cleaning, and laundering processes to flow to streets and alleys or into any storm drain or water course or to any place other than the sanitary sewer.
- J. Permit filter backwash from swimming pools and fountains to drain to any area other than the sanitary sewer or connect the backwash discharge pipe to anything other than the sanitary sewer system.
- K. Permit liquid wastes from animal pens used for kennels, animal hospitals, packing houses, poultry processing plants and dairies to flow to any area other than the sanitary sewer.
- L. Permit unused materials from ready-mix concrete mortar, and asphalt base delivery trucks to be dumped to any area that may drain to any stream, water course storm sewer, or sanitary sewer.
- M. Permit any residue to be disposed of or any vehicle to be washed down at any site not approved for that purpose.
- N. Permit waste oil storage drums or any other containers which are filled or partially filled with waste oil, solvents, or chemicals to remain in the open or under the eave of a building or structure in such a manner that the storage vessels may overflow as the result of precipitation or leak as a result of corrosion or damage.
- O. Permit old motors, transmissions, automobile parts, or any other machinery parts which are coated or partially coated with grease, oil, or solvents to remain uncovered in the open where portions of the coating materials may be washed to the storm sewers or water courses from precipitation.
- P. Permit sewage wastes, whether domestic or industrial, to flow to any area other than a sanitary sewer or approved septic tank.

- Q. Permit any sanitary sewer pipe to be open. It is an affirmative defense to this subsection that the sewer pipe is open while being actively constructed, cleaned, repaired, or inspected.
- R. On any premises he or she manages, owns, leases, or otherwise has control over, fail to complete repair of all malfunctioning sewer systems within 72 hours and complete removal of all residue, and complete treatment of affected areas with a suitable disinfectant within twenty-four (24) hours after written notice. Such notice shall be effective upon the earliest of any of the following:
 - 1. Upon personal service;
 - 2. Upon delivery to the person's office during normal working hours;
 - 3. Upon posting such notice on the door to the person's residence or office; or
 - 4. Seventy-two (72) hours after depositing the notice, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service.

Sec. 41-68. Plan for controlling accidental spills and hazardous substances.

The city council adopts as the standard for handling accidental spills and controlling hazardous substances within the city, the state oil and hazardous substances pollution contingency plan.

Sec. 41-69. Rules and regulations.

- A. Any expenses incurred in handling an accidental spill shall be paid by the party responsible for the accident.
- B. The director may promulgate rules and regulations that are reasonable and necessary to enforce the provisions of this article. A copy of the rules and regulations, when and if promulgated and certified as to truth and accuracy by the director, shall be filed with the city secretary of the city who shall maintain them as public record available for information.

ARTICLE XI. ENFORCEMENT

Sec. 41-70. Administrative enforcement remedies.

- A. Stop work order. Whenever the director finds that any operator of a construction site has violated, or continues to violate, any provision of this chapter, or any order issued under it, the director may issue a "stop work order" to the operator, posted at the construction site, and distributed to all city departments and divisions whose decisions affect any activity at the site. Unless express written exception is made by the director, the "stop work order" shall prohibit any further construction activity at the site and shall bar any further inspection or approval by the city associated with a building permit, grading permit, site development plan approval, or any other city approval necessary to commence or continue construction or to assume occupancy at the site. Issuance of a "stop work order" shall not be a bar against, or a prerequisite for, taking any other action against the violator.

- B. If compliance is not achieved to the city's satisfaction, the city may, at its discretion, report the noncompliance to the EPA.

Sec 41-71 Criminal Prosecution

- A. A user who violates any provision of this Chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than Two Thousand Dollars (\$2,000.00) per violation, per day, or imprisonment as decided by an appropriate court, or both.
- B. A user who 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 the same penalties described in 11.3.A. of this Chapter. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- C. A user who makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or renders inaccurate any monitoring device or method required under this Chapter shall, upon conviction, be subject to the same penalties described in 11.3.A. of the ordinance.
- D. **CRIMINAL RESPONSIBILITY.** A culpable mental state is not required to prove an offense under this Chapter. A person is criminally responsible for a violation of this Chapter if:
 - 1. The person commits or assists in the commission of a violation, or causes or permits another person to commit a violation; or
 - 2. The person owns or manages the property or facilities determined to be the cause of the illegal discharge under Sec.41-71 (Inadmissible Discharges), Sec. 41-33 (National Categorical Pretreatment Standards), Sec. 41-37 (Reporting Requirements), Sec. 41-61 (General Prohibitions), Sec.41-62 (Specific Prohibitions), or Sec. 41-67 (Acts Adversely Affecting Water Quality).

Sec. 41-72. Remedies nonexclusive.

The remedies provided for in this chapter are not exclusive of any other remedies that the city may have under state or federal law or other city ordinances. The city may take any, all, or any combination of these actions against a violator. The city may take more than one (1) enforcement action against any violator. These actions may be taken concurrently.

Sec. 41-73. Emergency suspensions.

- A. Emergency suspensions. The director may immediately suspend a user's water and wastewater service, after informal notice to the user, whenever a suspension may stop an actual or threatened discharge which reasonably appears to present or to cause an imminent or substantial danger to the health or welfare of any person. No hearing is required before

emergency suspension of water or wastewater service. The director may also immediately suspend a user's water and wastewater service, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, a danger to the environment.

- B. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director may take such steps as may be necessary, including immediate severance of water service and/or the sewer service, to prevent or minimize damage to the POTW, its receiving stream, or danger to any individual. The director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director that the period of danger has passed.
- C. A user that is responsible, in whole or in part, for any discharge presenting imminent danger shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director prior to the date of any show cause or termination hearing.

Sec. 41-74. Authority to disconnect service.

- A. Causes for termination of water and wastewater disposal service. In the following situations, the director may terminate water service and wastewater disposal service and immediately disconnect an industrial user from the system:
 - 1. When the industry releases to the sewer any acids, alkalis, or other chemicals damaging to sewer lines or treatment processes.
 - 2. When the industry is in violation of this chapter.
 - 3. When any governmental agency or the TRA informs the city that the effluent from the wastewater treatment plant is no longer of a quality permitted for discharge to a water course and the director finds that the industry is delivering wastewater to the city's public sewer system that significantly negatively impacts TRA's facility. The industry's water and wastewater lines may be disconnected when the city is informed by TRA that the effluent can no longer be discharged to a water course. The industry's water and wastewater treatment service may remain disconnected until such time as the industry has provided additional pretreatment facilities designed to remove the objectionable characteristics or pollutants from its industrial wastes.
 - 4. When the industry delivers its wastewater at an uncontrolled, variable rate insufficient quantity that it causes an imbalance in the wastewater treatment system.
 - 5. If false information is transmitted to the director through permit applications, monitoring reports or other reports required under a city, state, or federal pretreatment program.
 - 6. Violation of wastewater discharge permit conditions;
 - 7. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge; or
 - 8. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.

9. Failure of an industry to pay monthly bills for water and/or sanitary sewer services when due, including sampling cost, or failure to pay the established surcharge for industrial waste when due.
 10. In other cases of emergency, when necessary to protect the general health, safety or welfare of persons.
- B. Right to disconnect. The director's right to disconnect any industry from city services for the above reasons does not interfere with or negate the city's right to seek other available legal remedies including but not limited to revocation of the industry's discharge permit and civil or criminal penalties.
 - C. [Right to inspect.] As a condition of the city providing water service, directly or indirectly, to property; whether within or outside the corporate limits, and as a condition of connection to the public potable water system by customers under this chapter, any authorized officer or employee of the city may enter, inspect, monitor or conduct enforcement activities with respect to any part of the public or private potable water system servicing such premises, may enter without delay, upon, or through any premises to gain access to a cross-connection backflow prevention assembly or piping, and without limitation may inspect any customer's potable water system or piping or records pertinent to it. This right of entry extends to public streets, easements, and private property within which any portion of the public or private potable water system servicing such premises may be located.
 - D. [Remove security barriers.] Each consumer connected to the public potable water system shall make all necessary arrangements, at its expense, to remove without delay security barriers or other obstacles to access by the director.
 - E. [Obstruct access.] It is unlawful for any person to obstruct or unreasonably delay allowing access by the director to premises connected to the public potable water system.
 - F. Notice of violation (NOV). Whenever the director determines that any person has violated or is violating this article, the conditions of registration as a certified technician, installation requirements of a backflow prevention assembly under this chapter, or any other cross-connection protection requirement, the director may but is not required to serve on the person a written NOV describing the violation and the action required to correct it. An NOV may inform the recipient that, within five (5) calendar days of its receipt; the person receiving it shall provide to the director an explanation of the violation and a plan for its satisfactory correction and prevention including specific actions for correction of the violation.
 - G. [Submission.] Submission of the proposed corrective plan does not relieve the user of criminal or civil liability for violation of this chapter whether before or after receipt of the NOV.
 - H. Show cause hearing. The director may order a user which has violated or continues to violate any provision of this chapter, a wastewater discharge permit, an order, or any other pretreatment standard or requirement to appear before the director and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice

may be served on any authorized representative of the user. A show cause hearing is not a bar against or a prerequisite for taking any other action against the user.

- I. Compliance orders. When the director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, an order, or any other pretreatment standard or requirement, the director may issue an order to the user directing that the user come into compliance within a specified time. If the user does not come into compliance within the time limit provided, the director may discontinue sewer service unless the user installs and properly operates adequate treatment facilities, devices, or other related appurtenances. Compliance orders also may contain other requirements to address the noncompliance, including additional self monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order is not a bar against or a prerequisite for taking any other action against the user.
- J. Cease and desist orders. When the director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, an order, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to immediately comply with all requirements, and to 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 is not a bar against, or a prerequisite for, taking any other action against the user.
- K. [Authority of director.] Nothing limits the authority of the director to pursue any other enforcement action or remedy, including, emergency actions, without first issuing an NOV.
- L. [Liable to city.] Any person violating any of the provisions of this article is liable to the city for any expenses loss, or damage occasioned by the city because of the violation.
- M. [Disposal.] If any waste material regulated by this chapter is improperly disposed, dumped or stored on private or public property, the person responsible for disposing, dumping or storing the regulated waste material shall properly dispose of the waste material and clean up the contaminated area. If this material is located on private property and the person responsible for disposal or dumping of this waste material is not the owner or person who has control of the property, the owner or person who has control of the property shall properly dispose of the waste material and clean up the contaminated area under one of the following conditions:
 - 1. The person responsible for depositing the waste cannot be identified or;
 - 2. The responsible person is identified but refuses to clean up the property. Failure of the responsible person to clean up the material described in this section is a violation of this chapter; or
 - 3. The responsible person has been identified, but the owner or other person who has control of the property where the violation exists refuses to allow access to the property for proper cleanup.
- N. [Reimburse the city.] If the city cleans up any waste material regulated by this chapter the person responsible for the disposal or dumping of this material shall reimburse the city for all cleanup and disposal cost incurred by the city. If the responsible party can not be identified

and the waste material is located on private property, the owner of the property shall reimburse the city for any cleanup and disposal cost incurred by the city.

Sec. 41-75 Injunctive Relief

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

Sec. 41-76 Civil Penalties

- A. A user who has violated, or continues to violate, any provision of this Chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of One Thousand Dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. The Director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

Sec 41-77 Applicability of More Stringent Regulations

- A. If national pretreatment standards, categorical or otherwise, more stringent than the discharge limits prescribed in this article are promulgated by the United States Environmental Protection Agency for certain industries, the more stringent national pretreatment standards will apply to the affected industrial user. A violation of the more stringent national pretreatment standards will also be considered a violation of this Chapter.
- B. Applicability of more stringent discharge limits. An industrial user within the city who discharges industrial waste ultimately received and treated by another governmental

entity pursuant to a wholesale wastewater contract or a reciprocal agreement with the city is subject to the following additional rules:

1. If the governmental entity has more stringent discharge limits than those prescribed by this Chapter, or by a discharge permit issued hereunder, because the United States Environmental Protection Agency requires the more stringent discharge limits as part of the governmental entity's wastewater pretreatment program, the more stringent discharge limits shall prevail.
 2. The Director is authorized to issue a discharge permit to an industrial user affected by Subsection 1., to insure notice of and compliance with the more stringent discharge limits. If the industrial user already has a discharge permit, the Director may amend the permit to apply and enforce the more stringent discharge limits. An industrial user shall submit to the Director an expected compliance date and an installation schedule if the more stringent discharge limits necessitate technological or mechanical adjustments to discharge facilities or plant processes.
 3. If the Director chooses not to issue or amend a permit under Subsection 2. the Director shall notify the affected industrial user in writing of the more stringent discharge limits and their effective date. Regardless of whether or not a permit is issued or amended, an industrial user shall be given a reasonable opportunity to comply with the more stringent discharge limits.
 4. The more stringent discharge limits cease to apply upon termination of the city's wholesale wastewater contract or reciprocal agreement with the governmental entity, or upon modification or elimination of the limits by the government entity or the United States Environmental Protection Agency. The Director shall take the appropriate action to notify the affected industrial user of an occurrence under this Subsection 4..
- C. Variances in compliance dates. The Director may grant a variance in compliance dates to an industry when, in the Director's opinion, such action is necessary to achieve pretreatment or corrective measures. In no case shall the Director grant a variance in compliance dates to an industry affected by national categorical pretreatment standards beyond the compliance dates established by the United States Environmental Protection Agency.
- D. Authority to regulate. The Director may establish regulations, not in conflict with this Chapter, other laws, to control the disposal and discharge of industrial waste into the wastewater system and to insure compliance with the city's pretreatment enforcement program with all applicable pretreatment regulations promulgated by the United States Environmental Protection Agency. The regulations established shall, where applicable, be made part of any discharge permit issued to an industrial user by the Director.

Sec. 41-78 Affirmative Defenses to Discharge Violations

- A. Upset Provision
1. For the purposed of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset

does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

2. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph C below, are met.
3. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and the user can identify the cause(s) of the upset;
 - b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - c. The user has submitted the following information to the Director within twenty-four (24) hours of becoming aware of the upset, if this information is provided orally, a written submission must be provided within five (5) days:
 - 1) A description of the indirect discharge and cause of noncompliance;
 - 2) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - 3) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
4. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
5. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
6. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon deduction, loss, or failure of its pretreatment 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.

In an action brought in municipal or state court only:

B. Act of God Provision

1. An event that would otherwise be a violation that is caused solely by an act of God, war, strike, riot, or other catastrophe is not a violation.
2. In any enforcement proceeding, the user seeking to establish the occurrence of an act of God, war, strike, riot, or other catastrophe shall have the burden of proof.

3. In the event that A. and B. above has been demonstrated the user shall control production of all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided.

C. Bypass

1. For the purposes of this section:
 - a. “Bypass” means the intentional diversion of wastestreams from any portion of a user’s treatment facility.
 - b. “Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
2. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs 3 and 4 of this section.
3.
 - a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Director at least ten (210) days before the date of the bypass, if possible.
 - b. A user shall submit oral notice to the Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, Including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
4.
 - a. Bypass is prohibited, and the Director may take an enforcement action against a user for a bypass, unless
 - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There was no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

- (3.) The user submitted notices as required under paragraph 3. of this section.
- b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraph 4.a. of this section.

Sec. 41-79 Requirements for Users of Publicly Owned Treatment Plants

This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works for the City of Irving and enables the City of Irving to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403).

SECTION 2. That the terms and provisions of this ordinance shall be deemed to be severable and that if section, subsection, sentence, clause or phrase of this ordinance should be declared to be invalid, the same shall not affect the validity of any other section, subsection, sentence, clause or phrase of this ordinance.

SECTION 3. All rights and remedies of the City of Irving, Texas, are expressly saved as to any and all violations of the provisions of the ordinance amended in Section 1, which have accrued at the time of the effective date of this ordinance and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 4. This ordinance shall be cumulative of all provisions of all ordinances and of the Code of the City of Irving, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 5. That it is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

SECTION 6. That this ordinance shall become effective immediately upon passage and publication.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF IRVING,
TEXAS, this 20th day of March A.D. 2003.

JOE PUTNAM
MAYOR

ATTEST:

Janice Carroll, CMC
City Secretary

APPROVED AS TO FORM:

David Caylor
City Attorney