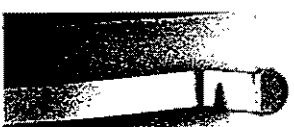


WASTE

C
Town of Addison Ordinance RE: Industrial
Waste



© 2010

#R3-1

Council Agenda Item: #R3

SUMMARY:

The attached Industrial Waste Ordinance and attachments will replace Ord. #087-004 and relax sewer discharge restrictions on various industries due to the demonstrated efficiencies of the Trinity River Authority in removing certain industrial pollutants from the wastewater system.

FINANCIAL IMPACT:

Budgeted Amount: -0-

Cost: -0-

If over budget or not budgeted, what is the budget impact?

N/A

BACKGROUND:

Certain industries called Significant Industrial Users (SIUs) discharge or have the potential to discharge pollutants that are incompatible or harmful to the sanitary sewer system, the publicly owned treatment works (POTW) or the rivers and lakes (receiving waters) that receive treated sewage. Since 1987, these SIUs have been regulated as if their waste streams were being discharged directly to the receiving waters without the benefit of treatment by a POTW. The Trinity River Authority, which operates the POTW that handles most of Addison's sewage, has demonstrated the ability to remove or at least reduce many industrial pollutants in the sewer system. After seven years of consideration, the EPA has finally decided to recognize these efficiencies demonstrated by TRA and allow this "credit" to be passed along to SIUs in the form of relaxed restrictions on certain industrial pollutants. (see attached cover letter)

RECOMMENDATION:

Staff recommends approval.

#R3-2

January 20, 2003

To: The Honorable Mayor and City Council

From: Neil Gayden, Environmental Services Official

Re: Changes & Updates to Sewer Use Ordinance

In accordance with an EPA mandate, the Town of Addison adopted Ordinance No. 087-004 in 1987 to regulate businesses that have the potential to discharge certain toxic pollutants to the sanitary sewer. The required discharge limitations for these Significant Industrial Users (SIUs) is identical to similar businesses that could be permitted to discharge directly (without further treatment) to the receiving waters (Trinity River).

Seven years ago, EPA began consideration of an objective that takes into account the efficacy of the Trinity River Authority Waste Treatment Facility (TRA) in removing or reducing the concentration of regulated pollutants from the sanitary sewer wastewater stream. This rationale would give "credit" to SIUs for TRA's sewage treatment efficiency by relaxing discharge concentration limits for most pollutants.

In addition to an ordinance rewrite, an Enforcement Response Plan, a Funding Resolution and an Attorney's Statement are required to demonstrate an assurance that the Town of Addison has the intent, resolve, legal ability and resources to enforce a sewer use pretreatment program.

To the best of my knowledge, these changes, updates and additions will have no additional impact on current and prospective SIUs or any other Addison business. No additional funding or personnel is needed to administrate this ordinance or any changes to the industrial pretreatment program.

#R3-3

TOWN OF ADDISON

ENFORCEMENT RESPONSE PLAN

JANUARY 2003

TABLE OF CONTENTS

<u>Chapter</u>	<u>Title</u>	<u>Page</u>
I.	IDENTIFICATION OF RESPONSIBLE PERSONNEL	2
I.1.	Control Authority - (CA)	2
1.a.	Northern Region Manager - (NRM)	2
1.a.	Staff Attorney - (SA)	2
1.a.	Technical Services Manager - (TSM)	2
1.a.	Contracting Party	2
II.	INDUSTRIAL USER INVENTORY	3
II.1.	Control Authority	3
III.	COMPLIANCE MONITORING PROCEDURES	4
III.1.	Compliance Data Collection	4
III.2.	Inspections	4
IV.	PROCEDURES TO SCREEN AND TRACK COMPLIANCE DATA	5
IV.1.	Control Authority Responsibilities	6
IV.2.	City Responsibilities	6
IV.3.	Submission of Data	6

V.	RESPONSE CRITERIA	7	
VI.	ENFORCEMENT RESPONSES	8	
	VI.1. Phone Call	8	
	VI.2. Notice of Violation	9	
	VI.3. Review Meeting	9	
	VI.4. Administrative Orders	9	
	VI.5. Civil Litigation	10	
	VI.6. Criminal Prosecution	11	
	VI.7. Termination of Sewer Service		2
	VI.8. Supplemental Enforcement Response	12	
VII.	ENFORCEMENT RESPONSE GUIDE	13	

I. IDENTIFICATION OF RESPONSIBLE PERSONNEL

I.1. CONTROL AUTHORITY - (CA)

The Control Authority is the Trinity River Authority of Texas (TRA) as the operator of a multi-jurisdictional regional wastewater facility that provides wastewater treatment, by contract, to the Town of Addison, Texas (hereafter “the City”). The Control Authority also implements an approved pretreatment program as part of its existing TPDES permit requirements. TRA's enforcement capabilities originate from the contractual obligations of the City. Enforcement action to an IU must be initiated and pursued by the City.

I.1.a. Northern Region Manager - (NRM)

The NRM, or designated representative, is responsible for the operation and maintenance of the receiving wastewater treatment plant. The NRM is also responsible for meeting TPDES requirements.

I.1.b. Staff Attorney - (SA)

Is responsible for the review and commentary of any potential or ongoing judicial proceedings that the Control Authority may become involved in as pertains to the pretreatment program. The Staff Attorney also supplies legal counsel as needed on other issues, such as the Control Authorities legal obligations and rights.

I.1.c. Technical Services Manager - (TSM)

Is responsible for the overall staffing and funding of the pretreatment program. The TSM is responsible for the development and implementation of the Industrial Pretreatment Program, and appoints designated personnel for ongoing duties and tasks.

I.2. Contracting Party

A Contracting Party (in this instance, The “Town of Addison” or “City”) is an entity that contracts with TRA for services. Contracts range from wastewater treatment, to pretreatment services, and/or laboratory services. By contract, Town of Addison is responsible for the overall implementation of the pretreatment program within its jurisdiction. The City Manager has identified a designated representative that is responsible for ongoing implementation and monitoring of the pretreatment program. This designated representative will also serve as the contact for TRA. All IU enforcement must be initiated and followed through by the City.

The City is responsible for maintaining a City Ordinance containing current local limits which grant adequate legal authority to maintain, implement and enforce the pretreatment program. The City must also convey to the Control Authority in a timely manner, all relevant documents pertaining to the current IU's, as well as newly identified IU's. Current Permits, sample data and required reports, etc. will be forwarded to the Control Authority.

II. INDUSTRIAL USER INVENTORY

II.1. Control Authority

Customer cities shall maintain an Industrial User Master Inventory list for existing and potential Industrial Users. The Control Authority will perform ongoing updates as new industries are identified. This will be accomplished by setting up identification procedures with the designated representative within each of the City. The identification procedures will utilize the following:

- a) review of Contracting Party water use records
- b) review of building permits issued in commercial/industrial areas
- c) review of area phone books
- d) review of a Texas manufacturers guide
- e) on-site inspections of commercial/industrial areas to detect and define any new industries
- f) an Industrial User Survey, to be performed at a minimum of once every three (3) years.

In order to form a close association with the customer cities and to receive the appropriate information required to maintain an up-to-date Master Inventory, it will be necessary to designate personnel responsible for the transfer of data.

The TRA representative will coordinate with the designated City official to receive information concerning new IU's.

It is the responsibility of the designated City official to transfer all applicable water use records and/or building permit information to the Control Authority. A complete Industrial User Inventory will be performed at least once every three (3) years.

III. COMPLIANCE MONITORING PROCEDURES

It is the intent and purpose of Central Regional Wastewater System's Industrial Pretreatment Program that compliance monitoring activities be established to detect and document violations. The Program must support the results obtained from compliance monitoring as admissible evidence in any judicial proceedings that may result due to non-compliance.

Compliance data are collected in two ways:

- (1) self-monitoring by the permitted industrial user, the results of which are forwarded to the Control Authority, and,
- (2) inspections and monitoring by the City, or their authorized representative.

III. 1. The method of compliance data collection, time schedules for submission of data to the City and certification statements are established and set forth in the issued permits of Industrial Users. Regardless of the IU self monitoring, the City will have legal authority to conduct its' own monitoring events to evaluate and verify compliance.

The City will assure that, at a minimum, one (1) sample per year will be collected for analysis of all regulated pollutants for each of the permitted industrial users. Violations will result in increased sampling frequency. Within 30 days of becoming aware of a discharge limit violation, the IU will be resampled for the parameter in question. Sample collection and analysis shall be in accordance with procedures set forth in 40 CFR 136 unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question sampling and analyses must be performed in accordance with procedures approved by EPA..

The IU is required to conduct self monitoring on a semi-annual basis. The City may opt to perform this sampling for the industry. In this case the City will sample a minimum of twice per year (semi-annually). City is responsible for reviewing City sampling data to determine it's validity. The designated City representative is responsible for reviewing industry self-monitoring data to determine validity.

III. 2. The City, or an authorized representative of the City, will conduct inspections at each of the permitted industries at a minimum of one per year, and more often should the City deem necessary. Inspections will be carried out in accordance with the procedures established by the Industrial

Pretreatment Program.

The following are commonly noted during inspections:

- manufacturing processes
- chemical storage and amounts kept on hand
- comparison of water usage with semi-annual reports, permit applications, and/or water use records
- evaluate need for, or update of spill control plan
- evaluate the need for a slug control plan
- evaluate the need for a Total Toxic Organic (TTO) management plan or how well the current one is implemented

Any deficiencies noted during inspections are addressed at this time. Depending on the magnitude, a target date for correction or an NOV can be issued, with a follow up report requested. Inspections can also, at the City's discretion, be performed during construction, and to investigate noncompliance issues.

If the City, Control Authority, State and/or Federal agent is denied entry/access into an IU after displaying the proper credentials, or is denied copies of records, a warrant is obtained for entry.

IV. PROCEDURES TO SCREEN AND TRACK COMPLIANCE DATA

In order to effectively screen all compliance data received from an Industrial User it is necessary to provide the method and designated personnel responsible for tracking compliance monitoring information. All data gathered, regardless if it is generated by self-monitoring reports or the City or Control Authority personnel, will be screened to identify violations. Violations identified will be addressed with an appropriate response.

IV. 1. Control Authority Responsibilities

The Control Authority is responsible for screening data received from City. Data received will be screened no later than ten (10) working days after receipt.

IV. 2. City Responsibilities

The City is responsible for complying with the POTW's pretreatment program. This includes evaluating situations of noncompliance, conducting inspections, and receiving required reports. The

Environmental Services Official, will screen data for violations and issue a notice of violation to the non-compliant industry, usually requiring a ten (10) day response, no later than ten (10) working days following receipt of the data. The Control Authority may provide pretreatment services on a contractual basis. In either case the City is responsible for forwarding all IU data (including water use records) to the Control Authority once received from an IU. Issuing permits is also a City responsibility. Parameters to be included in an IU permit are determined according to the USEPA Guidance Industrial User Permitting Guidance Manual, September 1989.

IV. 3. Submission of Data

The City is responsible for maintaining complete files on each industry and forwarding a copy of the data/correspondence submitted to the Control Authority. Correspondence received from the City and/or industry is stamped with the date. All data sent and received is kept in the industry and/or City file.

Suspense date tracking for industrial notices and reports are accomplished through the use of a computer, the monthly update, and the files. Notices and reports that would require a suspense date could include a minimum of the following:

- a) Notices of Violation (NOV)
- b) Compliance schedule progress reports
- c) Baseline monitoring reports (categorical only)
- d) Ninety day compliance reports
- e) Self Monitoring reports
- f) Notification of changed discharge
- g) Permit renewal applications
- h) Notice of potential problems, including slug loading
- i) Notification of hazardous waste discharge
- j) Requested inspection follow up reports

The Control Authority is responsible for reviewing incoming correspondence from the City and/or industries. Incomplete reports received from an IU are addressed according to severity and number of occurrences.

V. RESPONSE CRITERIA

It is the duty of the City to establish a proper range of enforcement responses that identifies many common discharge and non-discharge violations. When determining a proper response to Industrial User violations, the City will consider the following criteria:

1. Magnitude of the Violation
2. Duration of the Violation
3. Effect on the Receiving Water
4. Effect on the POTW
5. Compliance History of the User
6. Good Faith of the User

"Good faith" shall be defined as the user's honest intention to remedy its noncompliance, combined with actions which give support to this intention. A user's demonstrated willingness to comply may predispose the Control Authority and/or the City to select less stringent enforcement responses. Good faith will not eliminate the necessity for enforcement action. Compliance with any previous enforcement orders will not necessarily demonstrate good faith.

VI. ENFORCEMENT RESPONSES

When a violation is identified, the Control Authority and/or the City will determine whether the violation should be considered significant or not significant. Significant violations will be responded to based on severity. The City may initially rely on informal actions such as telephone calls or Notices of Violation where violations are not significant, or do not result in immediate harm. However, when the violation is significant, or when the Industrial User does not promptly undertake corrective action, the City shall respond with more severe enforcement actions. In either case the enforcement response will promote a return to compliance in a timely manner.

There are several initial and follow-up actions that the City may use in responding to noncompliance issues. Which response, or combination of responses utilized will depend on the violation's severity, its duration, its effect on the environment and the treatment plant, the user's compliance history including its "good faith" in taking corrective action and the IU's economic benefit received from remaining in noncompliance. Industrial users committing significant violations can be assessed a

penalty based upon the economic benefit received. The amount of the penalty may be calculated using procedures outlined in the USEPA's Guidance Manual for POTW's to Calculate the Economic Benefit of Noncompliance (September, 1990).

The Enforcement Response Guide will be utilized in determining the uses of each enforcement action. When the IU fails to return to compliance following the initial enforcement response, the City shall escalate its enforcement response in a follow-up action. A description of the response actions follows:

1. Phone Call

This is an informal communication between the City and/or Control Authority to discuss situations that arise. This response could be used as the starting point for situations that are not significant in nature.

2. Notice of Violation

The Notice of Violation (NOV) is an official communication from the City to the noncompliant industrial user that informs the user that a pretreatment violation has occurred.

The purpose of the NOV is to notify the industrial user of the violation(s) and to request a response within a given time period, usually within 10 working days.

3. Review meeting

An informal meeting between the Industry and the City and/or Control Authority to discuss a non compliance issue. This meeting can be at the request of the Industry and/or the City and is usually used as an avenue for discussion of the current situation and/or the sequence of events on impending action.

4. Administrative Orders

An Administrative Order (AOs) are enforcement documents which direct industrial users to undertake and/or cease specified activities. The terms of AOs may or may not be negotiated with industrial users. The AOs may incorporate compliance schedules, civil or criminal penalties, and termination of service orders. There are four types of AOs that the City may utilize alone or in combination.

a. Cease and Desist Order

A cease and desist order will direct a user to cease illegal unauthorized discharges

immediately or to terminate its discharge altogether. The order will be utilized in situations where the discharge could cause interference or pass-through at the treatment plant, or otherwise cause an emergency situation. The City may order immediate cessation of any discharge to its collection system, regardless of a user's compliance status. If the user fails to comply with the order, the City may take independent action to halt the discharge, such as terminating water service or blocking the user's connection point.

b. Consent Order

The consent order is an agreement between the City and the industrial user normally containing three elements:

- 1) compliance schedules
- 2) stipulated fines or remedial actions
- 3) signatures of the City and industry representatives.

c. Show Cause Order

An order to show cause shall direct the user to appear before the City to explain its noncompliance, and show cause why more severe enforcement actions against the user should not be pursued. The show cause order/hearing may also be used to investigate violations of previous orders.

d. Compliance Order

The compliance order shall direct the user to achieve or restore compliance by a date specified in the order. The terms of the compliance order need not be discussed with the user prior to issuance. The order may be used to require a user to develop management practices, spill prevention programs, and any other related pretreatment program requirements.

5. Civil Litigation

Civil litigation shall be the formal process of filing lawsuits against industrial users to secure court ordered actions to correct violations and to secure penalties for violations including the recovery of costs to the POTW of the noncompliance. Civil litigation shall also include enforcement measures which require involvement or approval by the courts, such as

injunctive relief and settlement agreements. It can be pursued when the corrective action required is costly and complex, or when the industrial user is considered to be unmanageable and/or unwilling to cooperate.

Civil Litigation will be considered an appropriate enforcement response in three general situations:

- a. situations where injunctive relief is necessary to halt or prevent discharges which threaten human health or the environment, or interfere with the POTW;
- b. when efforts to restore compliance through cooperation with the industrial user have failed and a court supervised settlement (consent decree) is necessary to enforce program requirements;
- c. to impose civil penalties and or to recover losses incurred due to the noncompliance.

The City will utilize three types of civil litigation either alone or in conjunction. They are as follows:

a. Consent Decree

An agreement between the City and the industrial user reached after a lawsuit has been filed. The decree will be signed by the judge assigned to the case. It will be used when the violator is willing to acknowledge and correct the noncompliance and the City and the violator agree on the penalty. The agreement can be formalized prior to a full hearing on the issues.

b. Injunction

A court order that will direct parties to follow an established procedure and/or to refrain from actions. An injunction can be utilized if the delays involved in filing a suit would result in irreparable harm. A cease and desist order may be used in place of injunctive relief.

c. Civil Penalties and Cost Recovery

Reimbursement to the City and/or Control Authority by the industrial user to pay for all such expenses incurred in responding to the noncompliance, including restoration

of the physical treatment plant and collection system, payment for medical treatment of injured personnel, and indemnification for all fines assessed for TPDES permit violations.

6. Criminal Prosecution

Criminal prosecution shall be the formal process of charging individuals and/or organizations with violations of ordinance provisions that are punishable, upon conviction, by fines and/or imprisonment. Its purpose is to punish noncompliance established through court proceedings and to deter future noncompliance.

7. Termination of Sewer Services

Shall be the revocation of an industrial user's privilege to discharge industrial wastewater into the City's sewer system. Termination may be accomplished by physical severance of the industry's connection to the sewer system, by issuance of an administrative order which requires the user to terminate its discharge, or by a court ruling. Termination of sewer service can be considered an appropriate response to industries which have not responded adequately to previous enforcement remedies. A notice to the industrial user will be issued, when possible, to fulfill the due process requirements associated with service termination and enables the user to halt production in time to avoid backflows, spills, and other harm to its facility as well as time to look for alternative means of wastewater disposal.

8. Supplemental Enforcement Responses

These responses shall be designed to reinforce the compliance obligations of industrial users and shall be determined on an individual basis. The responses will be organized into two categories as follows:

a. Public Notice

As a requirement of 40 CFR 403.8(f)(2)(vii) an annual publication of a list of industrial users which were significantly violating applicable pretreatment standards or requirements during the calendar year will be employed. Publication of the list is intended to deter industrial users from committing pretreatment violations and to satisfy the public's right to know of violations affecting its immediate environment and causing additional expenditures of public funds to operate and maintain the

treatment system.

b. Increased Monitoring and Reporting

When an industrial user demonstrates a history of noncompliance they shall be subjected to increased surveillance (i.e., sampling and inspections) by the City. Additional self-monitoring and reporting may also be required of the industrial user until the problem is corrected and consistent compliance is demonstrated. The increased monitoring shall continue for a specific period of time or until continued compliance has been insured.

VII. ENFORCEMENT RESPONSE GUIDE

The enforcement response guide shall serve as a matrix describing violations and indicate a range of appropriate enforcement options. It defines the range of enforcement actions based on the nature and severity of the violations and other relevant factors and is intended to promote consistent and timely use of enforcement remedies. The guide allows the City to select from several alternative initial and follow-up actions. When an industrial user fails to return to compliance following enforcement response, the City shall "escalate" its enforcement response in a more stringent follow-up action.

The City shall consider the following criteria when determining a proper response:

- **Magnitude of the violation**
- **Duration of the violation**
- **Effect of the violation on the receiving water**
- **Effect of the violation on the POTW**
- **Compliance history of the industrial user**
- **Good faith of the industrial user**
- **Economic Benefit of Noncompliance**

The attached enforcement response guide identifies types of common violations the City anticipates may be found, indicates what should be considered in determining which responses are appropriate for many of the common discharge and non-discharge violations, identifies initial and follow-up responses to the violations, and designates personnel responsible for administering each of these responses.

The following guidelines serves as a tool that is to be used as follows:

1. Locate the type of noncompliance in the first column and identify the most accurate description of the violation.
2. Assess the appropriateness of the recommended response(s) in column two. First offenders or users demonstrating "good faith" efforts may merit a more lenient response. Similarly, repeat offenders or those demonstrating negligence may require a more stringent response.
3. Apply the enforcement response to the industrial user. Specify corrective action or other responses required of the industrial user, if any. Column three indicates personnel by title to initiate each response.
4. Follow-up with escalated enforcement action if the industrial user's response is not received or violations continue .

#R3-4

ENFORCEMENT RESPONSE PLAN
SUMMARY OF ACTION

I. MONITORING AND REPORTING			
Non-compliance	Nature of Non-compliance	Enforcement Action	Personnel
Reporting	Report is improperly signed or certified	Phone call or Letter	City
	If not corrected	-NOV -Review Meeting -possible AO	City
	Report is late (more than 7 day	-Phone call -Letter -NOV	City
	Significantly late (30 days or more)	-SNC; published in newspaper - Possible AO	City
	Incomplete/Deficient reports	-Phone Call or Letter	City
	Recurring	-NOV -AO	City
	Failure to report spill or changed discharge no harm	-Letter - NOV	City
	Results in harm (no intent)	-Review Meeting -possible AO -Civil Action -Payment for costs/penalties	City
	(intent)	-AO -Civil Action -Criminal Investigation	City
Self-Monitoring (if required)	Failure to monitor for all pollutants	-Retest -Increase monitoring	City
	Second Occurrence	-NOV -AO	City
	Failure to monitor in correct location	-NOV -Retest in correct location -Possible AO -Possible Civil Action	City

MONITORING AND REPORTING (Continued)			
Non-compliance	Nature of Non-compliance	Enforcement Action	Personnel
3. Compliance Schedules	Report late - less than 7 days	-Phone Call or Letter	City
	Recurrence	-Review meeting -Possible AO	City
	Report late - more than 7 days, less than 30	-NOV and/or Review Meeting	City
	30 or More days late	-NOV -Review Meeting -possible AO	City
	Missed Final Milestone (no reasonable cause for delay)	-Show Cause -Civil Action -Terminate Service	City

I. VIOLATIONS DETECTED DURING SITE VISITS

1. Entry Denied	Entry denied and/or copies of records denied	-Warrant obtained and return to IU	City
2. Illegal Discharge	No Harm	-NOV -Review Meeting -AO	City
	Recurring	-Civil Action -Criminal Action	City
	Causes Harm or evidence of intent and/or neglect	-Civil Action -Criminal Action	City
3. Improper Sampling	Unintentional	-NOV	City
	Intentional	-NOV -AO	City
4. Failure to Report Additional Monitoring	Inspection finds additional files	-NOV	City
	Recurring	-AO	City

II. DISCHARGE LIMIT VIOLATIONS

Non-compliance	Nature of Non-compliance	Enforcement Action	Personnel
1. Violation of Permit Limit (parameter must be listed under effluent limitations in the permit)	Isolated, Not Significant	-NOV	City
	Isolated, Significant, No Harm	-Compliance Schedule -AO	City
	Isolated, Cause Harm	-Show Cause Order -Civil Action	City
	Recurring, No Harm	-AO -Civil Action	City
	Recurring, Cause Harm	-Show Cause Order -Civil Action -Terminate Service	City
2. Slug and/or Unpermitted Discharge	Unaware of Requirement No Harm	-Phone Call -NOV with Application	City
	Harm	-AO -Civil Action	City
3. Nonpermitted Discharge	Unaware of Requirement No Harm	-Phone Call -NOV -Resubmit permit application	City
4. Violation of Parameter not in permit	No Harm	- Notified of Violation of City Ordinance - Permit Amendment to include Parameter violated	City

IV. FALSIFICATION

1. Suspected	Commence investigation	-Steps as necessary to obtain information	City
2. Proven	Depending on Severity	-Review Meeting -Show Cause -Civil Action	City
3. Good Faith	Acted in good faith, no reason to believe intent	-Phone Call -Review Meeting	City

7. NON-EFFLUENT VIOLATIONS			
1. Permit Violations	Dilution in lieu of treatment	-NOV with date to correct	City
	Recurring	-AO with possible show cause	City
2. Equipment	Fail to maintain equipment in operable order		City
	Results in violation (first time)	-Depending on Magnitude NOV	
	Second Time	-Review Meeting -AO	City
3. Failure to Mitigate Noncompliance	Further incidents	-Show Cause -Civil Action	City
	Good Faith effort demonstrated	-Show Cause -AO	City
4. Inadequate Records	Intent	-Civil Action	
	Good Faith effort demonstrated	-Review Meeting -AO	City
	Intent	-Civil Action	City

- v. All violations will be identified and documented within ten working days of receiving compliance information.
- w. Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate responses such as halting the discharges or terminating service.

TOWN OF ADDISON, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING CHAPTER 82, "UTILITIES," OF THE TOWN OF ADDISON CODE OF ORDINANCES BY PROVIDING REVISED STANDARDS FOR THE HANDLING OF INDUSTRIAL WASTEWATER; MAKING CERTAIN SEMANTIC, GRAMMATICAL AND STRUCTURAL CHANGES; APPROVING THE ENFORCEMENT RESPONSE PLAN FOR THE TOWN OF ADDISON, ATTACHED HERETO AS EXHIBIT A; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED \$2000.00 FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. That Division 7 of Article III, "Sewers," of Chapter 82, "Utilities," of the Code of Ordinances of the Town of Addison is hereby amended to read as follows:

"DIVISION 7. INDUSTRIAL WASTEWATER STANDARDS

Sec. 82-172 GENERAL PROVISIONS

Sec. 82-172.1 Purpose and Policy

This division sets forth uniform requirements for users of the Publicly Owned Treatment Works for the Town of Addison and enables Addison 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 Chapter I, Subchapter N, Part 403). The objectives of this division are:

- A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

- D. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- F. To enable the Control Authority to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This division shall apply to all users of the Publicly Owned Treatment Works. It authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

Sec. 82-172.2 Administration

Except as otherwise provided herein, the Environmental Services Official shall administer, implement, and enforce the provisions of this division. Any powers granted to or duties imposed upon the Environmental Services Official may be delegated by the Environmental Services Official to other Addison personnel.

Sec. 82-172.3 Abbreviations

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

- BOD - Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand
- EPA - U.S. Environmental Protection Agency
- gpd - gallons per day
- mg/l - milligrams per liter
- NPDES - National Pollutant Discharge Elimination System
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classification

- SIU - Significant Industrial User
- TCEQ - Texas Commission on Environmental Quality
- TPDES - Texas Pollutant Discharge Elimination System
- TRA - Trinity River Authority
- TSS - Total Suspended Solids
- TTO - Total Toxic Organics
- U.S.C. - United States Code

Sec. 82-172.4 Definitions

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

- A. Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 *et seq.*
- B. Approval Authority. The Regional Administrator of EPA or the Director of a state agency delegated to act on EPA's behalf with an approved pretreatment program (e.g. Director of TCEQ).
- C. Authorized Representative of the User.
 - (1) If the user is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

- (3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in paragraphs 1 through 3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Town of Addison.
- D. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).
- E. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- F. Addison. The Town of Addison or the City Council of Addison, Contracting Party of the Trinity River Authority's Central Regional Wastewater System.
- G. Composite Sample. 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 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.
- H. Control Authority. Trinity River Authority of Texas as holder of the NPDES permit.
- I. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.
- J. Environmental Services Official. The person designated by the City who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.
- K. Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

- L. Grab Sample. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- M. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.
- N. Industrial User. An industry that discharges wastewater into the wastewater system.
- O. Instantaneous Maximum Allowable Discharge Limit. 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.
- P. Interference. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the 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); 40 CFR 503 sludge regulations; any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act and 30 TAC 312; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
- Q. Medical Waste. 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.
- R. NPDES (National Pollutant Discharge Elimination System). 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).
- S. New Source.
 - (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

- (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- (a) Begun, or caused to begin, as part of a continuous onsite construction program
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase 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.
- T. 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.
- U. Normal Wastewater. Wastewater which the average concentration of suspended solids and five-day BOD does not exceed 250 mg/l each.

- V. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Control Authority's NPDES permit, including an increase in the magnitude or duration of a violation.
- W. Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- X. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
- Y. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- Z. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- AA. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- BB. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- CC. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.
- DD. Publicly Owned Treatment Works or POTW. A "treatment works," as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the City and/or the Control Authority. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.
- EE. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

FF. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

GG. Shall is mandatory; May is permissive.

HH. Significant Industrial User.

(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, noncontact 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 City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

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

II. Slug Load or Slug. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 82-173.1 of this division.

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

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

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

MM. Total Toxic Organics. 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 industrial users' discharge at a concentration greater than 0.01 mg/L. Only those parameters reasonably suspected to be present, as determined by the Environmental Services Official, 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, as determined by the Environmental Services Official, where not stipulated.

NN. User or Industrial User. A source of indirect discharge.

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

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

Sec. 82-173 GENERAL SEWER USE REQUIREMENTS

Sec. 82-173.1 Prohibited Discharge Standards

- A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
 - (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 82-173.4. In no case shall wastewater containing a pH less than 5.0 be discharged unless the POTW is specifically designated to accommodate such discharges;
 - (3) Solid or viscous substances in amounts which will 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, will cause interference with the POTW;
- (5) Wastewater having a temperature greater than 150°F (65°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);
- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (8) Trucked or hauled pollutants, except at discharge points designated by the Environmental Services Official and the Control Authority in accordance with Section 3.4 of this ordinance;
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the applicable NPDES permit;
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, and unpolluted wastewater, unless specifically authorized by the Environmental Services Official and the Control Authority;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, except as specifically authorized by the Environmental Services Official and/or the Control Authority 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) Fats, oils, or greases of animal or vegetable origin in concentrations greater than that specified in the applicable local limits in Section 82-173.4;
- (18) A discharge of water, normal domestic wastewater, or industrial waste that which in quantity of flow exceeds, for a duration of longer than fifteen minutes, more than four times the average twenty four hour flow during normal operations of the industry;
- (19) Insecticides and herbicides in concentrations that are not amenable to treatment;
- (20) Polychlorinated biphenyls;
- (21) Garbage that is not properly shredded to such an extent that all particles will be carried freely under the flow conditions normally prevailing in wastewater mains, with no particle having greater than one-half (1/2") inch cross-sectional dimension;
- (22) Wastewater or industrial waste generated or produced outside the City, unless approval in writing from the Environmental Services Official and the Control Authority has been given to the person discharging the waste; or
- (23) Without the approval of the Environmental Services Official and the Control Authority, a substance or pollutant other than industrial waste, normal domestic wastewater, septic tank waste or chemical toilet waste that is of a toxic or hazardous nature, regardless of whether or not it is amenable to treatment, including but not limited to bulk or packaged chemical products.

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. 82-173.2 National Categorical Pretreatment Standards

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

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Environmental Services Official may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Environmental Services Official

shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

- C. 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.
- D. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

Sec. 82-173.3 Reserved

Sec. 82-173.4 Local Limits

The following pollutant limits are established to protect against pass through and interference. No person shall discharge or cause or permit to be discharged, wastewater containing in excess of the following maximum allowable discharge limits into the following system(s):

TRA CENTRAL
INSTANTANEOUS

MAX LIMITS

<u>POLLUTANT</u>	<u>(mg/l)</u>
Arsenic	0.2
Cadmium	0.1
Chromium	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 11.00
	Standard Units

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

Sec. 82-173.5 Town of Addison's Right of Revision

The Town of Addison reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

Sec. 82-173.6 Dilution

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

Sec. 82-173.7 Plant Loading

No industry shall discharge wastewater containing a BOD or TSS loading that causes the City's prorata share of the total BOD or TSS loading to the POTW System to exceed the City's prorata share of the total flow to the POTW System. (Example: If the City contributes 25% of the total wastewater flow to the System, the City's cumulative BOD or TSS loading to the System, as measured at the City's points of entry to the System, shall not exceed 25% of the total BOD or TSS loading to the System.)

Any industry with a wastewater strength that will cause the City's cumulative wastewater loading, at the City's points of entry, to exceed the City's prorata share of the total wastewater loading based upon flow, shall be required to install pretreatment facilities to reduce its wastewater strength to an acceptable level.

Sec. 82-174 PRETREATMENT OF WASTEWATER

Sec. 82-174.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this division and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 82-173.1 of this division within the time limitations specified by EPA, the State, the Control Authority, or the Environmental Services Official, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Environmental Services Official for review, and shall be acceptable to the Environmental Services Official before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Town of Addison under the provisions of this division.

Sec. 82-174.2 Additional Pretreatment Measures

- A. Whenever deemed necessary, the Environmental Services Official may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and require such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this division.
- B. The Environmental Services Official may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- C. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Environmental Services Official, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the Environmental Services Official and shall be so located as to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.
- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter, or other control device as deemed necessary by the Environmental Services Official.

Sec. 82-174.3 Accidental Discharge/Slug Control Plans

At least once every two (2) years, The Environmental Services Official shall evaluate whether each permitted significant industrial user needs an accidental discharge/slug control plan. The Environmental Services Official may require any user to develop, submit for approval, and implement such a plan. An accidental discharge/slug control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Environmental Services Official and Control Authority of any accidental or slug discharge, as required by Section 82-176.6 of this division; and
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site 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.

Sec. 82-174.4 Hauled Wastewater

- A. Septage waste may be introduced into the POTW only at locations designated by the Environmental Services Official and Control Authority, and at such times as are established by the Environmental Services Official and Control Authority. Such waste shall not violate Section 82-173 of this division or any other requirements established by the Town of Addison. The Environmental Services Official and/or Control Authority may require septic tank waste haulers to obtain wastewater discharge permits.
- D. Septage waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of generator, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

Sec. 82-175 WASTEWATER DISCHARGE PERMIT

Sec. 82-175.1 Wastewater Analysis

When requested by the Environmental Services Official, a user must submit information on the nature and characteristics of its wastewater by the deadline stipulated. The Environmental Services Official is authorized to prepare a form for this purpose and may periodically require users to update this information.

Sec. 82-175.2 Wastewater Discharge Permit Requirement

- A. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from The Environmental Services Official, except that a significant industrial user that has filed a timely application pursuant to Section 82-175.3 of this division may continue to discharge for the time period specified therein.
- B. The Environmental Services Official may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this division.
- C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this division and subjects the wastewater discharge permittee to the sanctions set out in Sections 82-179 through 82-182 of this division. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements with any other requirements of Federal, State, or local law.

Sec. 82-175.3 Wastewater Discharge Permitting: Existing Connections

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this division and who wishes to continue such discharges in the future, shall, apply to the Environmental Services Official for a wastewater discharge permit in accordance with Section 82-175.5 of this division, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Environmental Services Official. If, in the judgment of the Environmental Services Official, the passing of the Ordinance does not significantly affect the Industrial Users current permit, then the existing permit will continue through to the expiration date.

Sec. 82-175.4 Wastewater Discharge Permitting: New Connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 82-175.5 of this ordinance, must be filed prior to the date upon which any discharge will begin or recommence.

Sec. 82-175.5 Wastewater Discharge Permit Application Contents

All users required to obtain a wastewater discharge permit must submit a permit application. The Environmental Services Official may require all users to submit as part of an application the following information:

- A. All information required by Section 82-176.1(B) of this ordinance;
- B. 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;
- C. Number and type of employees, hours of operation, and proposed or actual hours of operation;
- D. Each product produced by type, amount, process or processes, and rate of production;
- E. Type and amount of raw materials processed (average and maximum per day);
- F. 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;
- G. Time and duration of discharges; and
- H. Any other information as may be deemed necessary by the Environmental Services Official to evaluate the wastewater discharge permit application.

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

Sec. 82-175.6 Application Signatories and Certification

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

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

Sec. 82-175.7 Wastewater Discharge Permit Decisions

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

Sec. 82-175.8 Wastewater Discharge Permit Duration

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

Sec. 82-175.9 Wastewater Discharge Permit Contents

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Environmental Services Official to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Wastewater discharge permits must contain:

- (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with Section 82-175.12 of this division, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Effluent limits based on applicable pretreatment standards;
- (4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
- (5) 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.

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

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- (8) Other conditions as deemed appropriate by The Environmental Services Official to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

Sec. 82-175.10 Reserved.

Sec. 82-175.11 Wastewater Discharge Permit Modification

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

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to POTW, POTW personnel, or the receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- H. To correct typographical or other errors in the wastewater discharge permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator.

Sec. 82-175.12 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives advance notice to The Environmental Services Official and the Environmental Services Official approves the wastewater discharge permit transfer. The notice to the Environmental Services Official must include a written certification by the new owner or operator which:

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

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

Sec. 82-175.13 Wastewater Discharge Permit Revocation

The Environmental Services Official may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the Environmental Services Official of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the Environmental Services Official of changed conditions pursuant to Section 82-176.5 of this division;

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

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

Sec. 82-175.14 Wastewater Discharge Permit Reissuance

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 82-175.5 of this division, prior to the expiration of the user's existing wastewater discharge permit.

Sec. 82-176 REPORTING REQUIREMENTS

Sec. 82-176.1 Baseline Monitoring Reports

- A. 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 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Environmental Services Official a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that will become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Environmental Services Official a report which contains the information listed in paragraph B, below. 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.
- B. Users described above shall submit the information set forth below.
- (1) Identifying Information. The name and address of the facility, including the name of the operator and owner.
 - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - (4) Flow Measurement. Information showing the measured or estimated average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
 - (5) Measurement of Pollutants.
 - (a) The categorical pretreatment standards applicable to each regulated process.
 - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Environmental Services Official, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 82-176.10 of this division.

- (c) Sampling must be performed in accordance with procedures set out in Section 82-176.11 of this division.
- (6) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the 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 82-176.2 of this division.
- (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 82-175.6 of this division.

Sec. 82-176.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 82-176.1(B)(7) of this division:

- A. 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);
- B. No increment referred to above shall exceed nine (9) months;
- C. The user shall submit a progress report to The Environmental Services Official 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
- D. In no event shall more than nine (9) months elapse between such progress reports to the Environmental Services Official.

Sec. 82-176.3 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 Environmental Services Official a report containing the information described in Section 82-176.1(B)(4-6) of this division. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 82-175.6 of this division.

Sec. 82-176.4 Periodic Compliance Reports

- A. All significant industrial users shall, at a frequency determined by the Environmental Services Official but in no case less than twice per year, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 82-175.6 of this division.
- B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Environmental Services Official, using the procedures prescribed in Section 82-176.10 and 82-176.11 of this division, the results of this monitoring shall be included in the report.

Sec. 82-176.5 Reports of Changed Conditions

Each user must notify the Environmental Services Official of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater before the change is made.

- A. The Environmental Services Official may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 82-175.5 of this division.

- B. The Environmental Services Official may issue a wastewater discharge permit under Section 82-175.7 of this division or modify an existing wastewater discharge permit under Section 82-175.11 of this division in response to changed conditions or anticipated changed conditions.
- C. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent 20% or greater, and the discharge of any previously unreported pollutants that are determined to be of concern.

Sec. 82-176.6 Reports of Potential Problems

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the City and the Control Authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- B. Within five (5) days following such discharge, unless waived by the Director, 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. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this division.
- C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

Sec. 82-176.7 Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Environmental Services Official as the Environmental Services Official may require.

Sec. 82-176.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the Environmental Services Official within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Environmental Services Official within thirty (30) days after becoming aware of the violation. The user is not required to resample if the Environmental Services Official monitors at the user's facility at least once a month, or if the Environmental Services Official samples between the user's initial sampling and when the user receives the results of this sampling.

Sec. 82-176.9 Notification of the Discharge of Hazardous Waste

- A. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 82-176.5 of this division. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Sections 82-176.1, 82-176.3, and 82-176.4 of this division.
- B. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Environmental Services Official, the

POTW, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

- D. 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.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

Sec. 82-176.10 Analytical Requirements

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

Sec. 82-176.11 Sample Collection

- A. Except as indicated in Section B, below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Environmental Services Official 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 used to show compliance with instantaneous discharge limits.
- B. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

Sec. 82-176.12 Timing

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

Sec. 82-176.13 Record Keeping

Users subject to the reporting requirements of this division shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this division 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, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Town of Addison or where the user has been specifically notified of a longer retention period by the Environmental Services Official.

Sec. 82-177 COMPLIANCE MONITORING

Sec. 82-177.1 Right of Entry: Inspection and Sampling

The Environmental Services Official and/or the Control Authority, TCEQ, or USEPA or their designated representative shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow inspecting or sampling person ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. 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 City, Control Authority, TCEQ or USEPA will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Environmental Services Official an/or Control Authority shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations. All sampling and analysis performed by the Environmental Services Official and/or Control Authority to monitor compliance shall be at the expense of the industrial user.
- C. The Environmental Services Official and/or Control Authority may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated, at a minimum, annually to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Environmental Services Official and/or Control Authority and shall not be replaced. The costs of clearing such access shall be born by the user.

- E. Unreasonable delays in allowing the inspecting or sampling person access to the user's premises shall be a violation of this ordinance.
- F. 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.

Sec. 82-177.2 Search Warrants

If the Environmental Services Official and/or Control Authority has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Town of Addison 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 Environmental Services Official and/or Control Authority may seek issuance of a search warrant from the an appropriate court.

Sec. 82-178 CONFIDENTIAL INFORMATION

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

Sec. 82-179 - PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Environmental Services Official shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

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

Sec. 82-180 ADMINISTRATIVE ENFORCEMENT REMEDIES

Sec. 82-180.1 Notification of Violation

When the Environmental Services Official finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Environmental Services Official may serve upon that user a written Notice of Violation. Within the time frame specified in the notice, which is usually, but not always, ten (10) days, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Environmental Services Official. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Environmental Services Official to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

Sec. 82-180.2 Reserved

Sec. 82-180.3 Show Cause Hearing

The Environmental Services Official may order a user which has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Environmental Services Official and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

Sec. 82-180.4 Compliance Orders

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

Sec. 82-180.5 Cease and Desist Orders

When the Environmental Services Official finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Environmental Services Official may issue an order to the user directing it to cease and desist all such violations and directing the user to:

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

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

Sec. 82-180.6 Reserved

Sec. 82-180.7 Emergency Suspensions

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

- A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Environmental Services Official may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Environmental Services Official may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Environmental Services Official that the period of endangerment has passed, unless the termination proceedings in Section 82-180.8 of this division are initiated against the user.
- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Environmental Services Official prior to the date of any show cause or termination hearing under Sections 82-180.3 or 82-180.8 of this division.

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

Sec. 82-180.8 Termination of Discharge

In addition to the provisions in Section 82-175.13 of this division, any user who violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the pretreatment standards in Section 82-173 of this division.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 82-180.3 of this division why the proposed action should not be taken. Exercise of this option by the Environmental Services Official shall not be a bar to, or a prerequisite for, taking any other action against the user.

Sec. 82-181 JUDICIAL ENFORCEMENT REMEDIES

Sec. 82-181.1 Injunctive Relief

When the Environmental Services Official finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Environmental Services Official may petition the appropriate Court through the Town of Addison's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. The Environmental Services Official 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. 82-181.2 Civil Penalties

- A. A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Town of Addison 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 Environmental Services Official 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 Town of Addison.
- 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. 82-181.3 Criminal Prosecution

- A. A user who violates any provision of this ordinance, 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 Ordinance. 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 ordinance shall, upon conviction, be subject to the same penalties described in 82-181.3.A. of this division.
- D. **CRIMINAL RESPONSIBILITY.** A culpable mental state is not required to prove an offense under this division. A person is criminally responsible for a violation of this division 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 Section 82-173.1, 82-173.2, 82-173.4, 82-174.4, or 82-175.2.

Sec. 82-181.4 Remedies Nonexclusive

The remedies provided for in this division are not exclusive. The Environmental Services Official may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town of Addison's Enforcement Response Plan on file in the City Secretary's Office. However, the Environmental Services Official may take other action against any user when the circumstances warrant. Further, the Environmental Services Official is empowered to take more than one enforcement action against any noncompliant user.

Sec. 82-181.5 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 division.
- 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 herein, 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 Environmental Services Official 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 Environmental Services Official may amend the permit to apply and enforce the more stringent discharge limits. An industrial user shall submit to the Environmental Services Official 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 Environmental Services Official chooses not to issue or amend a permit under Subsection (2), the Environmental Services Official 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 Environmental Services Official shall take the appropriate action to notify the affected industrial user of an occurrence under this Subsection (4).
- C. Variances in compliance dates. The Environmental Services Official may grant a variance in compliance dates to an industry when, in the Environmental Services Official's opinion, such action is necessary to achieve pretreatment or corrective measures. In no case shall the Environmental Services Official 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 Environmental Services Official may establish regulations, not in conflict with this division or 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 and 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 Environmental Services Official.

Sec. 82-182 RESERVED

Sec. 82-183 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

Sec. 82-183.1 In an action brought in federal court only:

Upset Provision

- A. For the purposes 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.
- B. 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.
- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) 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
 - (3) The user has submitted the following information to the Environmental Services Official 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:
 - (a) A description of the indirect discharge and cause of noncompliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

- E. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- F. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

Sec. 82-183.2 In an action brought in municipal or state court only:

Act of God Provision

- A. 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.
- B. 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.
- C. 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.

Sec. 82-183.3 Bypass

- A. For the purposes of this section:
 - (1) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. 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 C. and D. of this section.
- C. (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Environmental Services Official, at least ten (10) days before the date of the bypass, if possible.

- (2) A user shall submit oral notice to the Environmental Services Official 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 Environmental Services Official may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- D. (1) Bypass is prohibited, and the Environmental Services Official may take an enforcement action against a user for a bypass, unless
- (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate 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
 - (c) The user submitted notices as required under paragraph C. of this section.
- (2) The Environmental Services Official may approve an anticipated bypass, after considering its adverse effects, if the Environmental Services Official determines that it will meet the three conditions listed in paragraph D.(1) of this section.

Sec. 82-184 WASTEWATER TREATMENT RATES

[RESERVED]

Sec. 82-185 MISCELLANEOUS PROVISIONS

Sec. 82-185.1 Pretreatment Charges and Fees

- A. The Town of Addison may adopt reasonable fees for reimbursement of costs of setting up and operating the Town of Addison's Pretreatment Program which may include:
1. Fees for wastewater discharge permit applications including the cost of processing such applications;
 2. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
 3. Fees for reviewing and responding to accidental discharge procedures and construction;
 4. Fees for filing appeals; and
 5. Other fees as the Town of Addison may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this division and are separate from all other fees, fines, and penalties chargeable by the Town of Addison.
 6. Fees for treating abnormal strength wastes
 7. Fees incurred from an upset, bypass or unauthorized discharge.

B. Surcharge

The Town of Addison may surcharge industrial users for the treating of abnormal strength wastes. Water or wastes having 1) a five day biochemical oxygen demand greater than two hundred fifty (250) parts per million (ppm) by weight or 2) containing more than two hundred fifty (250) parts per million by weight of total suspended solids shall be subject to the review and approval of the Environmental Services Official. Where the Environmental Services Official has approved the admission of (1) or (2) above into the POTW, that discharge may be subject to a surcharge as determined by the Environmental Services Official. In no case shall a discharge be accepted that will prevent the POTW from meeting its limits.

The surcharge will be assessed according to the following formula each month using the most current pollutant concentration data and the current months' wastewater flow:

$$\text{Surcharge} = \frac{Q}{1,000,000} \times [a(\text{BOD} - x) + b(\text{TSS} - y)][8.34]$$

Where:

- Q = flow in gallons
- 8.34 = weight in pounds of one gallon of water
- x = normal limits of BOD in domestic wastewater expressed in milligrams per liter
- y = normal limits of TSS in domestic wastewater expressed in milligrams per liter
- a = unit cost of treatment per pound of BOD
- b = unit cost of treatment per pound of TSS
- BOD = measured amount of BOD, in mg/L
- TSS = measured amount of TSS, in mg/L

A surcharge is an additional charge by the POTW for the increased cost of handling discharge of unusual strength and character and shall not serve as a variance to the requirements of this division. Exercise of this provision shall not be a bar to, or a prerequisite for, taking any other action against the user."

Section 2. That Sections 82-180 through 82-210 of Chapter 82 of the Town of Addison Code of Ordinances shall be renumbered appropriately.

Section 3. That Exhibit A, Town of Addison Enforcement Response Plan, is hereby approved and shall be kept on file in the City Secretary's Office.

Section 4. That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction be subject to a fine not to exceed the sum of \$2000.00 for each offense and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Section 5. That Chapter 82 of the Town of Addison Code of Ordinances shall remain in full force and effect save and except as amended by this ordinance.

Section 6. That the sections, paragraphs, sentences, phrases, clauses and words of this ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this ordinance or application thereof to any person, firm or corporation, or to any circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the City Council hereby declares that it would have adopted such remaining portions of this ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 7. That this ordinance shall take effect upon passage and publication, and it is accordingly so ordained.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 28th day of January, 2003.

R. Scott Wheeler, Mayor

ATTEST:

APPROVED AS TO FORM:

By: _____
Carmen Moran, City Secretary

By: _____
Kenneth C. Dippel, City Attorney

R4-1

January 20, 2003

To: The Honorable Mayor and City Council
From: Neil Gayden, Environmental Services Official
Re: Changes & Updates to Sewer Use Ordinance

In accordance with an EPA mandate, the Town of Addison adopted Ordinance No. 087-004 in 1987 to regulate businesses that have the potential to discharge certain toxic pollutants to the sanitary sewer. The required discharge limitations for these Significant Industrial Users (SIUs) is identical to similar businesses that could be permitted to discharge directly (without further treatment) to the receiving waters (Trinity River).

Seven years ago, EPA began consideration of an objective that takes into account the efficacy of the Trinity River Authority Waste Treatment Facility (TRA) in removing or reducing the concentration of regulated pollutants from the sanitary sewer wastewater stream. This rationale would give "credit" to SIUs for TRA's sewage treatment efficiency by relaxing discharge concentration limits for most pollutants.

In addition to an ordinance rewrite, an Enforcement Response Plan, a Funding Resolution and an Attorney's Statement are required to demonstrate an assurance that the Town of Addison has the intent, resolve, legal ability and resources to enforce a sewer use pretreatment program.

To the best of my knowledge, these changes, updates and additions will have no additional impact on current and prospective SIUs or any other Addison business. No additional funding or personnel is needed to administrate this ordinance or any changes to the industrial pretreatment program.

ATTORNEY'S STATEMENT

January 28, 2003

Ken C. Dippel, Attorney-at-Law
Cowles & Thompson
901 Main St. #400
Dallas, Texas 75202

Re: Legal Authority

To Whom It May Concern:

Our firm represents the Town of Addison, Texas, (hereafter "city"), and the following statement is submitted pursuant to the requirements contained in the Code of Federal Regulations (CFR) Section 403.9(b)(1) regarding legal authority for the Town of Addison to implement the Pretreatment Program.

It is our opinion that the City has adequate authority to carry out the program described in 40 CFR Section 403.8. The following references to the legal authority requirements of 40 CFR 403.8(f)(1) are correlated with appropriate sections of Chapter 82 of the Town of Addison Code of Ordinances, which provides the required authority. All ordinance sections cited are to those contained in Chapter 82 of the Town of Addison Code of Ordinances, as amended by Ordinance No. _____. Where the authority is not apparent from a reading of the ordinance provision, an explanation is provided.

General -- Section 82-166 of the Town of Addison Code of Ordinances provides that all parts of the water and wastewater systems are the property of the City. Thus, connections of lateral or other sewers to the sewerage system are subject to such terms and conditions as the City may prescribe. The Town of Addison City Council has adopted Ordinance No. _____, amending Chapter 82 of the Code of Ordinances and setting forth the terms and conditions upon which industrial users may connect to the system.

403.8(f)(1)(i) -- New contributions to the public sewerage system may not be made without an industrial user first obtaining a Permit to Discharge Industrial Waste (Section 82-175.4), which contains various conditions and prohibitions (Section 82-175.9). Existing industrial users (those connected to the system prior to October 1996) shall be required by the City to obtain a Permit to Discharge Industrial Waste (Section 82-175.3). If there has been an increase or change in an industrial user's contribution to the system, the discharger is required to reapply for a permit to cover those changes (Section 82-176.5) and the City may change the conditions of any Permit to Discharge Industrial Wastes as circumstances may require (Section 82-175.11).

403.8(f)(1)(ii) -- In order to require compliance with applicable Pretreatment Standards, the Trinity River Authority CRWS must be able to require compliance with EPA's listed general prohibitions (403.5(a)), specific prohibitions (403.5(b)), and local limits developed to implement the general and specific standards (403.6). Section 82-173.1 of the Ordinance prohibits any discharge to a sewer that will result in a nuisance, or contamination or pollution of receiving waters. Section 82-

DRAFT

173.1 prohibits conditions that violate any statute, rule, regulation or ordinance of any public agency (including EPA). Section 82-173.2 prohibits those discharges prohibited by EPA regulations. These three sections empower the City to enforce the general and specific prohibitions contained in 40 CFR 403.5(a) and (b). When local discharge limits are developed pursuant to 403.5(c) and (d), they may be imposed by the City as a permit condition pursuant to Ordinance Section 82-173.4. National categorical pretreatment standards may also be imposed as permit condition per Ordinance Section 82-173.2, which empowers the City to regulate discharges regulated by EPA.

403.8(f)(1)(iii) -- Town of Addison has control via a permit system authorized by Ordinance Section 82-175.2 (a permit application form appears in the Administration Plan of the Proposed Pretreatment Program).

403.8(f)(1)(iv)(A) -- The Town of Addison may, to remedy or avoid a violation of the ordinance or to permit a user to discharge industrial wastes, require a user to develop a compliance schedule for installation of control technology under Ordinance Section 82-176.2. Additionally, the City may require a compliance schedule as part of the required information under Ordinance Section 82-176.2 as a condition of obtaining a Permit to Discharge Industrial Wastes.

403.8(f)(1)(iv)(B) -- The City may require a user to submit all notices and self-monitoring reports required by EPA regulations through authority granted in Ordinance Section 82-176.4.

403.8(f)(1)(v) -- The City may carry out inspection, surveillance and monitoring procedures under authority granted in Ordinance Section 82-177.1.

403.8(f)(1)(vi)(A) -- The City may seek remedies for noncompliance with pretreatment standards and requirements. As a matter of general law, the City may seek injunctive relief for noncompliance since any such noncompliance might result in irreparable harm to the treatment plant, to the health and safety of plant workers, and to the environment; and since damages at law would not be an adequate remedy. Ordinance Section 82-181.3 provides that intentional violation of the ordinance is a misdemeanor, which is punishable by a fine not to exceed \$2,000 per violation per day. Additionally, a civil liability is imposed by ordinance Section 82-181.2 for intentional or negligent violation of the City requirements relating to (1) pretreatment of industrial waste which would otherwise be detrimental to the treatment works or its operation, and (2) the prevention of entry of such waste into the collection system or treatment works. The civil liability may equal a sum not to exceed \$1,000 per day per violation.

403.8(f)(1)(vi)(B) -- The City may, under Ordinance Section 82-180.7, temporarily suspend a Permit to Discharge Industrial Wastes or impose temporary restrictions on discharges where continued discharges would jeopardize the ability of the treatment system to meet water quality standards, threaten damage to the sewerage system, or cause a nuisance or an unsafe condition to occur. Usually, a 48-hour period must pass before a suspension or restriction is effective. The waiting period may be dispensed with in emergency situations relating to public health and safety or a significant impairment of the treatment process. Ordinance Section 82-180.7 requires compliance with restrictions or cessation of discharges at the effective time of such action.

403.8(f)(1)(vii) -- Confidentiality requirements are provided for in Ordinance Section 82-178, "Confidential Information."

DRAFT

As stated above, The Town of Addison will implement the requirements of its pretreatment program and apply pretreatment standards to individual industrial users through use of a Permit to Discharge Industrial Wastes, and by direct enforcement of its Industrial Wastes Ordinance. A description of the exact procedure to be used in implementing the pretreatment program is provided in the Program Procedures portion of the Pretreatment Program.

The Town of Addison intends to ensure compliance with pretreatment standards and requirements through an inspection and sampling program authorized under Section 82-177.1 of the Ordinance, which would allow for the determination of noncompliance with discharge limitations and requirements independent of information supplied by the industrial user. The inspection and sampling program is described in the Program Procedures portion of this submission.

Those violating permit conditions will be ordered to "Cease and Desist" (Ordinance Section 82-180.5), and are subject to having service terminated (Section 82-180.7) and their permit revoked (Section 82-175.13). The City is prepared to take court action where necessary to enforce compliance with its ordinance, permits or orders.

Sincerely,

Ken C. Dippel, City Attorney

#R43

TOWN OF ADDISON, TEXAS

RESOLUTION NO. R _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS, ENDORSING THE IMPLEMENTATION OF A CONTINUING PRETREATMENT PROGRAM AS REQUIRED BY 40 CFR CHAPTER I, SUBCHAPTER N, PART 403 FOR THE CENTRAL REGIONAL WASTEWATER SYSTEM; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on June 26, 1978, the United States Environmental Protection Agency published a rule (Amended January 28, 1981) which established mechanisms and procedures for enforcing National Pretreatment Standards controlling the introduction of wastes from non-domestic sources into Publicly Owned Treatment Works (POTWs); and

WHEREAS, this rule, 40 CFR Chapter I, Subchapter N, Part 403, requires that a Pretreatment Program be developed for the Regional Wastewater System; and

WHEREAS, the Trinity River Authority of Texas, as the owner and operator of a POTW, must comply with this rule; and

WHEREAS, the Town of Addison, as a contracting party of the Regional Wastewater System, has entered into an Amendatory Wastewater Contract with the Trinity River Authority of Texas whereby the Town of Addison has enacted ordinances that are necessary to implement and enforce the National Pretreatment Standards; and

WHEREAS, Section 403.9 of Part 403 requires a statement reflecting the endorsement or approval of the local boards or bodies responsible for supervising and/or funding the POTW; Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. That the Town of Addison hereby endorses the implementation of a pretreatment program as required by 40 CFR Chapter I, Subchapter N, Part 403 for the Regional Wastewater System with such program to continue as long as 40 CFR Chapter I, Subchapter N, Part 403 remains in effect.

Section 2. That this resolution shall take effect immediately from and after its passage.

PASSED AND APPROVED this 28th day of January, 2003.

Scott Wheeler, Mayor
Town of Addison, Texas

ATTEST:

APPROVED AS TO FORM:

Carmen Moran, City Secretary

Ken Dippel, City Attorney