

**CITY OF BROWNSVILLE
NON-DOMESTIC WASTEWATER
PRETREATMENT ORDINANCE**

Revised December 2020

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ORDINANCE NO. 2020-795-G

AMENDING CHAPTER 102 “UTILITIES” OF THE CODE OF ORDINANCES OF THE CITY OF BROWNSVILLE, TEXAS; REPEALING ARTICLE VI. “INDUSTRIAL WASTES” OF CHAPTER 102 “UTILITIES” IN THE SAME CODE OF ORDINANCES; AMENDING, MERGING INTO ARTICLE VII, AND THEN REPEALING ARTICLE IX. – “FAT, OIL AND GREASE” OF CHAPTER 102 “UTILITIES” IN THE SAME CODE OF ORDINANCES; AMENDING AND UPDATING ARTICLE VII. “WASTEWATER PRETREATMENT PROGRAM REQUIREMENTS” OF CHAPTER 102 “UTILITIES” IN THE SAME CODE OF ORDINANCES; AMENDING VARIOUS DIVISIONAL AND SECTIONAL LANGUAGE IN CHAPTER 102, ARTICLE VII., TO IMPROVE AND UPDATE THE CITY OF BROWNSVILLE WASTEWATER PRETREATMENT PROGRAM TO MEET THE LATEST REGULATORY REQUIREMENTS OF THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY; CONSOLIDATING AND REPEALING TWO CURRENT ARTICLES IN CHAPTER 102 INTO THE REMAINING ARTICLE VII., TO ELIMINATE DUPLICATE LANGUAGE AND IMPROVE LANGUAGE LOCATION AND CONSISTENCY IN ORDER TO RENDER AMENDED ARTICLE VII. MORE EASILY UNDERSTOOD BY THE REGULATED COMMERCIAL, INSTITUTIONAL AND INDUSTRIAL SEWER SYSTEM USERS; REPEALING ANY PARTS OF PRIOR ORDINANCES INCONSISTENT HERewith; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR CIVIL FINES AND CRIMINAL PENALTIES; AND ORDAINING OTHER MATTERS INCIDENTAL THERETO.

WHEREAS, the City of Brownsville has heretofore adopted Chapter 102 “Utilities” of the Code of Ordinances of the City of Brownsville, Texas; and

WHEREAS, certain Articles of Chapter 102 must be periodically reviewed and updated by the City, acting by and through its Brownsville Public Utilities Board, in order to remain compliant with the current regulations of the Texas Commission on Environmental Quality and the United States Environmental Protection Agency; and

WHEREAS, this updating and consolidation of several Articles under Chapter 102 “Utilities,” into one comprehensive Article VII. addressing local non-domestic wastewater pretreatment regulations, will make it easier for the regulated wastewater customers to locate, comprehend and abide by the technical regulations, and

WHEREAS, in order to promote the health, safety and general welfare of the community and its orderly commercial and industrial development, it is proposed that said Chapter 102 “Utilities,” Article VII., “Wastewater Pretreatment Program Requirements” be amended in the particulars hereinafter set forth:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BROWNSVILLE:

SECTION 1.

Article VI. “Industrial Wastes” of Chapter 102 “Utilities” is hereby repealed. Article IX. “Fat, Oil and Grease” of Chapter 102 “Utilities” is hereby amended, merged into Article VII. “Wastewater Pretreatment Program Requirements,” and then previously existing Article IX. is hereby repealed.

SECTION 2.

Article VII. “Wastewater Pretreatment Program Requirements” of Chapter 102, “Utilities,” of the Code of Ordinances, City of Brownsville, Texas is hereby amended by changing its Divisions and Sections 102-371 through 102-451, to now read as follows:

ARTICLE VII. NON-DOMESTIC WASTEWATER PRETREATMENT PROGRAM
REQUIREMENTS.

DIVISION 1 GENERAL PROVISIONS

102-371 Purpose and Policy

This Ordinance sets forth uniform requirements for non-domestic indirect flow contributors into the wastewater collection and treatment system of the City of Brownsville which is managed and controlled by the Brownsville Public Utilities Board (BPUB or Control Authority) in order to satisfy compliance with applicable State and Federal laws required by the Clean Water Act of 1977 (33 U.S.C. § 1251 *et seq.*) and the General Pretreatment Regulations for Existing and New Sources of Pollution (40 C.F.R. Part 403), both as may be periodically amended.

The objectives of this 2020 Ordinance amendment are:

- (a) To prevent the introduction of pollutants into the municipal wastewater system which will create a public nuisance or interfere with operation of the system or contaminate the resulting wastewater treatment plants sludge;
- (b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- (c) To provide opportunities to improve recycling and reclamation of wastewater and sludge;
- (d) To ensure the quality of resulting wastewater treatment plants sludge to allow its use and disposal in compliance with statutes and regulations;
- (e) To enable the POTW to comply with Texas Pollutant Discharge Elimination System (TPDES) permit conditions, sludge use and disposal requirements and other Federal and State Laws;
- (f) To revise the Local Specific Pollutant Limitation for copper to 0.5 mg/l. (See: Sect. 102-378 herein).
- (g) To protect the health, safety and general welfare of the general public and POTW personnel; and
- (h) To provide for equitable distribution of the operations and maintenance costs of the municipal wastewater system.

This Ordinance repeals and replaces Ordinance No. 2011-795-F as amended and provides for the: regulation of all non-domestic commercial, institutional and industrial Users of the municipal wastewater system through the issuance of permits and through enforcement of

general requirements; authorizes monitoring and enforcement activities; requires User reporting; assumes that existing customers' capacity will not be pre-empted; and provides for the setting of updated fees for the equitable distribution of operation and maintenance costs resulting from the Pretreatment Program established herein.

All categorical pretreatment standards, lists of Toxic Pollutants, Industrial Categories and other standards and categories promulgated by the EPA, and/or the Texas Commission on Environmental Quality (TCEQ) as may be periodically amended, shall be incorporated as a part of this Chapter, as will any EPA and TCEQ Regulations regarding Sewage Pretreatment established pursuant to the Federal Clean Water Act. An amendment of this Ordinance to incorporate such periodic changes required by Federal and/or State regulations shall not be necessary.

The Authority shall endeavor to notify all affected Users prior to the Effective Date of this Ordinance within ninety (90) calendar days, as any future additional promulgated changes are incorporated to this Ordinance, but all affected Users shall keep themselves informed of all applicable Federal, State and local laws and regulations and any periodic changes thereto.

This Ordinance shall apply to all nondomestic Users of the City of Brownsville Publicly Owned Treatment Works (POTW) which indirectly discharge into the POTW's sanitary sewer system. Except as otherwise provided herein, the BPUB Pretreatment Manager of the City of Brownsville POTW shall administer, implement, and enforce the provisions of this Ordinance.

102-372 Definitions

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated:

(1) 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.*

(2) Administrator. The Administrator of the U.S. Environmental Protection Agency, or representatives of the Administrator such as the EPA Region 6 Administrator, located in Dallas, Texas.

(3) Amalgam Process Wastewater. Wastewater indirectly discharged from a Dental User containing dental amalgam.

(4) Amalgam Separator. Collection device designed to capture and remove dental amalgam from the amalgam process wastewater of a dental facility with a removal efficiency of at least 95 percent and meeting the ANSI/ADA criteria as outlined in 40 C.F.R. § 441.

(5) Approval Authority. The Executive Director of the Texas Commission on Environmental Quality ("TCEQ"). The TCEQ has authority to delegate "Approval Authority" status to local POTW's that have approved pretreatment programs, which the BPUB has achieved in TCEQ Region No. 15 on behalf of the City of Brownsville.

(6) Authorized Representative of Industrial User. An authorized representative of an Industrial User may be:

- (a) A responsible corporate officer if the Industrial User is a corporation. For the purpose of this paragraph, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operation facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater indirect discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (b) A general partner or proprietor if the Industrial User is a partnership or sole proprietorship, respectively;
- (c) 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.
- (d) A legally authorized representative of the individual designated above if:

- (i) The authorization is made in writing by the individual described in paragraph (a), (b) or (c) above;
- (ii) The written authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company;
- (iii) The written authorization is submitted to the BPUB as the local Control Authority.

(7) Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures and other management procedures to implement the prohibitions listed in Division 2 [40 C.F.R. § 403.5 (a)(1) and (b)], as may be periodically amended. BMPs also include treatment requirements, operating procedures, and practices to control plant site surface runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage, and other management practices to prevent or reduce the amount of pollution indirectly entering the City's sanitary sewer system, and/or directly entering the environment.

(8) Biochemical Oxygen Demand (BOD). The quantity of oxygen by weight utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty (20) degrees Centigrade (Celsius) expressed in terms of concentration (milligrams per liter (mg/l)), and as further described in the most current edition of the "Standard Methods for the Examination of Water and Wastewater."

(9) BPUB. Public Utilities Board of the City of Brownsville, an agency of the City designated by City Charter to manage, control, administer and operate the wastewater collection and treatment system (POTW) and regulate wastewater quality, as the TCEQ designated Approval Authority.

(10) Building Sewer. A sewer extension lateral conveying wastewater from the premises of a User to the POTW.

(11) Categorical Industrial User (CIU). Any existing or new Industrial User subject to Categorical Pretreatment Standards.

(12) Categorical Pretreatment Standards. 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(b) and (c)), as may be periodically amended, that apply to a specific category of Users and that appear in 40 C.F.R. Chapter I, Subchapter N, Parts 405-471, as may be periodically amended.

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

(14) City (COB). The City of Brownsville, Texas as a municipal corporation, or the City Commission of the City of Brownsville, Texas and the official acts of the City Commission and legally authorized Commission-designated entities and representatives.

(15) Clean Water Act (CWA). Also known as the Federal Water Pollution Control Act and sometimes referred to herein as “the Act,” enacted by Public Law 92-500, October 18, 1972, 33

U.S.C. § 1251 *et seq.*; as amended by PL 95-217, December 27, 1977; PL 97-117, December 29, 1981; PL 97-440, January 8, 1983; and PL 100-04, February 4, 1987.

(16) Cooling Water.

(a) Uncontaminated: Water used for cooling purposes which has no direct contact with any raw material, intermediate, or final product and which does not contain a level of contaminants detectably higher than that of the intake water.

(b) Contaminated: Water used for cooling purposes which may become contaminated either through the use of water treatment chemicals used for corrosion inhibitors or biocides, or by direct contact with process materials and/or wastewater.

(17) Control Authority (CA). The term "control authority" shall refer to the City of Brownsville Public Utilities Board (BPUB), and its Pretreatment Manager, also acting as the TCEQ designated local Approval Authority.

(18) Control Manhole. A manhole giving access to a building sewer lateral at some point before the building sewer indirect discharge mixes with other discharges already in the public sewer.

(19) Control Point. A point of access to a building sewer lateral to enable monitoring of the course of an indirect discharge, before the indirect discharge mixes with other discharges already in the public sewer.

(20) Daily Discharge. The indirect discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the flow characteristics and constituents during a calendar day for purposes of sampling.

(21) Daily Maximum Limit. The maximum allowable indirect discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily indirect discharge is the total mass indirectly discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily indirect discharge is the arithmetic average measurement of the pollutant concentrations derived from all measurements taken that day.

(22) Dental Amalgam. A mixture of metals, consisting of liquid (elemental) mercury and a powdered alloy composed of silver, tin, and copper that is used in the practice of dentistry.

(23) Dental/Amalgam Waste. Amalgam that is no longer suitable for use in making dental repairs such as excess mix leftover at the end of a dental procedure and amalgam removed as part of a dental repair or replacement. Removed teeth with fillings can contain amalgam and is included as waste in the definition.

(24) Dental Facility. A facility where the practice of dentistry is performed, including, but not limited to, institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by Federal, state or local governments, that indirectly discharges wastewater to a publicly owned treatment works (POTW).

(25) Direct Discharge. The discharge of treated or untreated wastewater directly to the waters of either the State of Texas or the United States of America (as distinguished from an “Indirect Discharge”).

(26) Director. The Executive Director of the Texas Commission on Environmental Quality (TCEQ).

(27) Domestic Holding Tank Waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and/or vacuum-pump tank trucks generated from a domestic source.

(28) Environmental Protection Agency, or (EPA). The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other legally authorized official of said USEPA.

(29) Existing Source. Any source of indirect discharge, the construction or operation of which commenced prior to the publication by EPA of Categorical Pretreatment Standards, which standards will be applicable to such source if the Standards are promulgated in accordance with Section 307 of the Act. (33 U.S.C. § 1317).

(30) Fats, Oils, and Greases (FOG). Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. All are sometimes referred to herein as "grease" or "greases."

(31) Flow Proportional Composite Sample. A sampling method which combines discrete aliquots of a sample collected over time, based on the flow of the waste stream being sampled. There are two methods used to collect this type of sample. One method collects a constant sample volume at time intervals which vary based on the stream flow [e.g., 200 milliliters (ml) sample collected for every 5,000 gallons discharged]. The other method collects aliquots of varying volume, based on stream flow, at constant time intervals. Composite sampling should not be used where the pollutants being sampled, such as cyanide and phenol, may not be held for an extended period because of biological, chemical or physical interactions which take place after sample collection

and affect the results. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.

(32) Garbage. Animal and vegetable wastes and residue from preparation, cooking, and dispensing of food; and from handling, processing, storage and sale of food products and produce.

(33) Generator. A person whose actions or inactions causes, creates, generates or otherwise produces waste.

(34) Grease Interceptor. A device designed to use differences in specific gravities to separate and retain light density liquids, waterborne fats, oils, and greases prior to the wastewater indirectly entering the sanitary sewer collection system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the interceptor and indirectly entering the sanitary sewer collection system.

(35) Grease Trap. An under-the-sink device designed to use differences in specific gravities to separate and retain light density liquids, waterborne fats, oils, and greases prior to the wastewater indirectly entering the sanitary sewer collection system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection system.

(36) Grab Sample. An individual sample of wastewater collected over a period of time not exceeding fifteen (15) minutes.

(37) Grease Interceptor or Grease Trap Waste. Material collected in and from a grease interceptor or grease trap in the sanitary sewer service line of a commercial, institutional, or industrial food service or processing establishment, including the solids resulting from de-watering processes.

(38) Grit Interceptor. A device designed to use the differences in specific gravities to separate and retain high-density liquids, automotive and industrial oils and greases, and solids prior to the wastewater indirectly entering the sanitary sewer collection system.

(39) Grit Interceptor Waste. Sand, grit, petroleum products and other inorganic particles collected in an interceptor in the sanitary sewer service line of a commercial or industrial automotive repair service or washing establishment, such as car washes, automotive repair and body shops and other industrial washing facilities.

(40) Indirect Discharge or Discharge. The active or passive introduction of pollutants into the POTW from any non-domestic source by an act or omission regulated under Section 307(b), (c), or (d) of the Act (as distinguished from a “Direct Discharge”).

(41) Industrial Holding Tank Waste. Any non-domestic waste from holding tanks such as vessels, septic tanks, and/or vacuum-pump tank trucks generated from an Industrial User.

(42) Industrial User (IU). An industrial source of Indirect Discharge.

(43) Industrial User Pretreatment Permit. As set forth in Sections 102-395 – 102-405 of this Ordinance.

(44) Industrial Waste. Waste resulting from any process of industry, manufacturing, trade, institution or business from the development of any natural resource, or any mixture of the waste with potable and/or storm water, or normal domestic strength wastewater, rendering the wastewater distinct from normal domestic strength wastewater.

(45) Industrial Waste Charge. The financial charge(s) assessed by BPUB on those persons who indirectly discharge commercial/institutional and/or industrial strength or high volume of wastes into the City's sanitary sewer system.

(46) Instantaneous Maximum Limit. The maximum concentration of a pollutant allowed to be indirectly discharged to the POTW 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.

(47) Interference. An indirect discharge which, alone or in conjunction or by interaction with indirect discharge or discharges from other sources, both:

(a) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(b) Therefore is a cause of a violation of any requirement of the POTW's TPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act, all as may be periodically amended.

(48) Local Limits. Specific prohibitions or limits on pollutants or pollutant parameters developed by the POTW in accordance with 40 C.F.R. § 403.5 (c) and which are deemed Pretreatment Standards for the purposes of Section 307 (d) of the Act (33 U.S.C. § 1317(d)), all as may be periodically amended.

(49) Maximum Allowable Discharge Limit. The maximum concentration of a pollutant allowed to be indirectly discharged to the POTW at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

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

(51) Monthly Average Limit. The highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

(52) National Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant indirect discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. § 1317(b) and (c)), as may be periodically amended) which applies to a specific category of Industrial Users. This term includes prohibitive indirect discharge limits established pursuant to 40 C.F.R. § 403.5, as may be periodically amended.

(53) National Pollutant Discharge Elimination System or NPDES Permit. A permit issued pursuant to Section 402 of the Act (33 U.S.C. § 1342), as may be periodically amended.

(54) National Pretreatment Standard. Pretreatment Standards shall mean prohibited indirect discharge standards, Categorical Pretreatment Standards, and Local Limits.

(55) Natural Outlet. Any outlet for the flow of non-contaminated water into a watercourse, ditch, lake, or other body of surface water or groundwater.

(56) NELAC or National Environmental Laboratory Accreditation Conference. A cooperative

association of states and federal agencies, formed to establish and promote mutually acceptable performance standards for the operations of environmental laboratories. The standards cover both analytical testing of environmental samples and the laboratory accreditation process. The goal of NELAC is to foster the generation of environmental laboratory data of known and acceptable quality on which to base public health and environmental management decisions.

(57) New Connection. An Industrial User that connects to the POTW after the effective date of this Ordinance.

(58) New Source.

a) Any building, structure, facility or installation from which there is or may be an indirect discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act (33 U.S.C. § 1317(c)), as may be periodically amended, which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section, provided that:

(i) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the indirect discharge of pollutants at an existing source; or

(iii) 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 sources are substantially independent, factors to be considered are: 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.

(b) 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 subparagraphs (a)(ii), or (a)(iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this subparagraph has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) 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

(ii) 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 subparagraph.

(59) 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.

(60) Non-Domestic User. Any wastewater source, (commercial/institutional/industrial) or any person who indirectly discharges, causes or permits the indirect discharge of wastewater from other than residential unit(s). This includes any liquid waste haulers that combine domestic and non-domestic waste(s).

(61) Normal Domestic Wastewater. Wastewater, excluding non-domestic commercial/institutional/industrial wastewater indirectly discharged by a person into City sanitary sewers containing an average concentration of total suspended solids (TSS) of not more than 200 mg/l, and BOD not more than 200 mg/l.

(62) Oil/Water Separator. A device designed to use the differences in specific gravities to separate and retain non-soluble, non-emulsified petroleum and allied petroleum products prior to the wastewater indirectly entering the sanitary sewer collection system.

(63) Oil/Water Separator Waste. Petroleum or allied petroleum products collected in a separator device in the sanitary sewer service lateral of a commercial, institutional, or industrial establishment.

(64) Overload. The indirect discharge(s) of excessive organic or hydraulic loading on a wastewater conveyance and/or treatment facility beyond its engineered design capacity.

(65) Pass Through. An indirect discharge which exits the POTW into waters of the United States or of the State in quantities or concentrations which, alone or in conjunction with another indirect discharge or discharges from other sources, causes of a violation of any requirement of the BPUB's POTW TPDES permit (including an increase in the magnitude or duration of a violation).

(66) Person. Any individual, partnership, co-partnership, firm, company, organization, corporation, municipal 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. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

(67) pH. A measure of the acidity or alkalinity of a solution, expressed in standard units, and defined as the negative logarithm (base10) of the hydrogen ion concentration expressed in grams per liter.

(68) Pollution. The man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of water.

(69) Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, septic waste, chemical waste, biological materials, radioactive materials, heat, wrecked or discharged materials/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).

(70) POTW Treatment Plant. That portion of the POTW (not pipelines, lift stations and other conveyances) designed to provide remedial wastewater treatment (including recycling and reclamation) of municipal sewage and sludge.

(71) Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutant(s) or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of indirectly discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

(72) Pretreatment Manager. The person designated by the BPUB to supervise the operation of the Pretreatment Program and who is charged with certain duties and responsibilities by this Division I. of the Ordinance, or his duly authorized representative.

(73) Pretreatment Requirement. Any substantive or procedural requirement related to non-domestic wastewater pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.

(74) Process Wastewater. Any water which, during manufacturing or processing, comes into direct contact with or results from the production of or use of any raw material, intermediate product, finished product, by-product, or waste product.

(75) Publicly Owned Treatment Works (POTW). A wastewater treatment works as defined by Section 212 of the Act (33 U.S.C. §1292, as maybe periodically amended) which is owned in this instance by the City, and operated and maintained by the BPUB. The term shall also mean the municipality as defined in Section 502(4) of the Act (33 U.S.C. § 1362 (4), as may be periodically amended which has jurisdiction over the indirect discharges to and the direct discharges from such a treatment works. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, lift stations, force mains and other conveyances only if they convey wastewater to a POTW Treatment Plant. For the purposes of this Ordinance, "POTW" shall also include any sewers that convey wastewater to the POTW from persons outside the City of Brownsville who are, by regulation, policy or agreement with the City of Brownsville, Users of the City of Brownsville's POTW. The terms "sanitary sewer system" and "POTW" may be used herein interchangeably.

(76) Public Sewer. A pipe or conduit designed and constructed to carry either wastewater or unpolluted stormwater drainage, but not both, into which owners of abutting properties may discharge certain type water flows, subject to control by the City and/or BPUB.

(77) Regional Administrator. The appropriate federal EPA Region 6 Administrator located in Dallas, Texas.

(78) Sanitary Sewer. A public sewer that conveys domestic strength wastewater or pre-treated non-domestic commercial/institutional/industrial wastewater, or a combination of both to a treatment facility, and into which potable water, stormwater, surface water, groundwater, and other unpolluted waters are not intentionally conveyed.

(79) Shall is mandatory; May is permissive or discretionary.

(80) Significant Industrial User (SIU)

(a) Except as provided in paragraph (b) of this definition, the term Significant Industrial Users means:

(i) All Industrial Users subject to Categorical Pretreatment Standards under 40 C.F.R. § 403.6 and 40 C.F.R. Chapter I, Subchapter N (as may be periodically amended); and

(ii) Any other Industrial User that indirectly discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding domestic strength sanitary, noncontact cooling and boiler blowdown wastewaters); contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority as defined in 40 C.F.R. § 403.12, (as

may be periodically amended) on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(b) Upon a finding that an Industrial User meeting the criteria in paragraph (a)(ii) of this Section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority (as defined in 40 C.F.R. § 403.12), as may be periodically amended) may at any time, on its own initiative as the POTW, or in response to a petition received from an Industrial User, and in accordance with 40 C.F.R. § 403.8(f)(6) (as may be periodically amended), determine that such Industrial User is not a Significant Industrial User.

(81) Significant Noncategorical Industrial User. A Significant Industrial User not subject to National Categorical Pretreatment Standards.

(82) Significant Noncompliance (SNC). The term Significant Noncompliance shall be applicable to all Significant Industrial Users or any other Industrial User that violates (c), (d), or (h) of this Section and shall mean:

(a) Chronic violations of wastewater indirect discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits;

(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 numeric Pretreatment

Standard or Requirement including Instantaneous Limits multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a Pretreatment Standard or Requirement as defined by 40 C.F.R. 403.3(1) (as may be periodically amended) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Pretreatment Manager determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel, the general public, or the environment;

(d) Any direct or indirect discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Pretreatment Manager's exercise of his/her emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) calendar days of the scheduled date, a compliance schedule milestone contained in an individual wastewater indirect discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide within thirty (30) calendar 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 Ordinance or permit noncompliance; or

(h) Any other violation(s), which may include a violation of Best Management Practices, which the Pretreatment Manager determines will adversely affect the operation or implementation of the local Pretreatment Program.

(83) Slug Load. Any indirect discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Sections 102-375 and 102-417 and other sections of this Ordinance. A slug discharge is any indirect discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or POTW Permit conditions.

(84) State. State of Texas.

(85) Standard Industrial Classification (SIC). A classification pursuant to the Federal Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972 and any amendments thereto.

(86) Standard Methods. The examination and analytical procedures set forth in the most current edition, (at the time of analysis), of "Standard Methods for the Examination of Water and Wastewater," as prepared, approved, and published jointly by: the American Public Health Association, the American Water Works Association; and the Water Environment Federation.

(87) Storm Sewer. A public drainage line, channel or conduit which is intended only for conveying stormwaters, surface waters and shallow groundwater drainage to a Natural Outlet, into which domestic wastewater or industrial wastewater discharges or flows are prohibited.

(88) Storm Water. Any surface water flow and runoff resulting from or following any form of natural precipitation, including condensation, rainfall, hail, ice and snowmelt.

(89) Texas Pollutant Discharge Elimination System (TPDES) Permit. A permit issued by the Texas Commission on Environmental Quality for the conditional discharge of treated wastewater pursuant to the Texas Water Code and applicable federal regulations. The BPUB has such permits at its wastewater treatment plants.

(90) Time Proportional Composite Sample. A sampling method which combines discrete sample aliquot of constant volume collected at constant time intervals (e.g., 200 milliliter (ml) samples collected every half hour for a 24-hour period). This method provides representative samples only where the sampled stream flow is constant, or where the volume is manually adjusted based on stream flow variation prior to being added to the composite sample container.

(91) Total Suspended Solids (TSS). The total suspended matter measured in mg/l that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering. The value of the test for Total Suspended Solids, is described in the latest edition of "Standard Methods for the Examination of Water & Wastewater."

(92) Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of CWA 307(a) or other Acts, as may be periodically amended.

(93) Transporter. A person who is registered with and authorized by the TCEQ to transport sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste in accordance with 30 Texas Administrative Code § 312.142.

(94) Trap. A device designed to skim, settle, or otherwise remove animal fats, oils, greases, sand, flammable wastes or other harmful substances prior to their indirect discharge into the POTW.

(95) Unpolluted Wastewater. Water containing:

- (1) No free or emulsified greases or oils;
- (2) No acids or alkalis;
- (3) No phenols or other substances producing taste or odor in receiving water;
- (4) No toxic or poisonous substances in suspension, colloidal state, or solution;
- (5) No noxious or otherwise obnoxious or odorous gases;
- (6) Not more than ten (10) mg/l each of suspended solids and BOD; and
- (7) Color not exceeding fifty (50) units as measured by the platinum-cobalt method of determination as specified in "Standard Methods."

(96) User. Any person, including those located outside the jurisdictional limits of the City, who contributes flow, causes or permits the flow contribution or indirect discharge of wastewater into the POTW, including persons who contribute such wastewater from mobile sources.

(97) Waste. Rejected, abandoned, discarded, unutilized or superfluous substances having no further useful value or purpose to the owner in liquid, gaseous, or solid form resulting from domestic, agricultural, institutional, commercial or industrial activities.

(98) Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions; together with any groundwater, surface water and stormwater that by unintended inflow and infiltration to the POTW may be present, whether treated or untreated, which is indirectly discharged into or which enters the POTW.

(99) Wastewater Facilities. Includes all publicly owned facilities (POTW) for collection, conveyance, pumping, treating, processing and disposing of wastewater and resulting sludge.

(100) Wastewater Service Charge. The monthly charge(s) on all Users of the public sanitary sewer system (POTW) whose liquid wastes do not exceed in strength the concentration values established as representative of normal domestic wastewater.

(101) Water of the State. Water of the ordinary flow, underflow, and tides of every flowing river, natural stream or lake, and of every bay of the Gulf of Mexico, or every river, natural stream, canyon, ravine, depression, and other continuous or intermittent flowing watershed in the State which are the property of the State.

102-373 Abbreviations

The following abbreviations and acronyms shall have the designated meanings:

| | |
|-------------|---------------------------------------|
| <u>ADA</u> | American Dental Association |
| <u>ANSI</u> | American National Standards Institute |
| <u>BMPs</u> | Best Management Practices |
| <u>BOD</u> | Biochemical Oxygen Demand |
| <u>BMR</u> | Baseline Monitoring Report |
| <u>BPUB</u> | Brownsville Public Utilities Board |
| <u>CA</u> | Control Authority |
| <u>CFR</u> | Code of Federal Regulations |
| <u>CIU</u> | Categorical Industrial User |
| <u>COB</u> | City of Brownsville, Texas |
| <u>COD</u> | Chemical Oxygen Demand |
| <u>CWA</u> | Clean Water Act |
| <u>EPA</u> | Environmental Protection Agency |
| <u>FOG</u> | Fats, Oils and Greases |
| <u>FSE</u> | Food Service Establishment |
| <u>IU</u> | Industrial User |

| | |
|----------------|---|
| <u>l</u> | Liter |
| <u>mg</u> | Milligram |
| <u>mg/l</u> | Milligrams per Liter |
| <u>NPDES</u> | National Pollutant Discharge Elimination System |
| <u>O&M</u> | Operations and Maintenance |
| <u>POTW</u> | Publicly Owned Treatment Works |
| <u>SIC</u> | Standard Industrial Classification code |
| <u>SIU</u> | Significant Industrial User |
| <u>SNC</u> | Significant Noncompliance |
| <u>SWDA</u> | Solid Waste Disposal Act, 42 U.S.C. § 6901 <i>et seq.</i> |
| <u>TCEQ</u> | Texas Commission on Environmental Quality |
| <u>TPDES</u> | Texas Pollutant Discharge Elimination System |
| <u>TSS</u> | Total Suspended Solids |
| <u>USC</u> | United States Code |

DIVISION 2 - REGULATIONS

102-374 General Discharge Prohibitions

No User shall introduce or cause to be introduced into the POTW any pollutant(s) or wastewater which causes Pass Through or Interference. These general prohibitions and the specific

prohibitions below apply to all such Users of the POTW whether or not the User is subject to the National Categorical Pretreatment Standards or any other national, State or local Pretreatment Standards or Requirements.

102-375 Specific Prohibitions

In addition, the following pollutants, substances, or wastewater shall not be indirectly discharged into the POTW:

- (a) Pollutants which create a fire or explosion hazard in the POTW (e.g. gasoline, benzene, naphtha, diesel fuel oil, and other similar flammable, or explosive liquids, solids or gases), including but not limited to, waste streams with a closed cup flashpoint of less than one hundred and forty (140) degrees Fahrenheit using the test methods specified in 40 C.F.R. 261.21, as may be periodically amended.
- (b) Solid liquid or viscous pollutants which will cause obstruction to the flow in the POTW resulting in interference, but in no case solids greater than ½ inches in any dimension.
- (c) Any wastewater having a pH less than 5.0, or higher than 10.5, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
- (d) Any discharge of petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause POTW Interference or Pass Through.
- (e) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludge, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process, or to prevent typical disposal in a municipal landfill.

(f) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(g) Heat in amounts which will inhibit positive biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the wastewater temperature exceeds one hundred and fifty (150) degrees Fahrenheit or that the temperature at the POTW treatment plant exceeds one hundred and four (104) degrees Fahrenheit unless the State Approval Authority, upon request of the POTW approves alternate temperature limits.

(h) Any pollutants, including oxygen-demanding pollutants (BOD, etc.), released in an indirect discharge at a flow rate and/or pollutant concentration which either singly or by interaction with other pollutants will cause Pass Through or Interference to the POTW. In no case shall a slug loading have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes and is more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

(i) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Approval Authority in compliance with applicable State or Federal regulations.

(j) Any storm water, roof runoff, subsurface drainage or surface drainage from downspouts, yard drains, yard fountains and ponds, or lawn sprinklers and/or other unpolluted water that will reduce the volumetric capacity of the POTW or serve to intentionally dilute the concentration of pollutants

(k) Any free or emulsified fats, waxes, greases or oils containing substances which may solidify or become discernably viscous at any temperature between thirty-two (32) and ninety (90) degrees Fahrenheit (Zero and 65 degrees Celsius); or any wastewater which exceeds a total recoverable Oil and Grease daily average concentration of 300 mg/l.

(l) Any pollutants that 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.

(m) Any trucked or hauled pollutants or waste, or mixed industrial and domestic holding tank waste (except at indirect discharge points designated by the POTW) unless the pollutants to be discharged are subject to testing by the Control Authority prior to indirect discharge to ascertain compliance with this Ordinance.

When the Pretreatment Manager determines that a User(s) is indirectly discharging to the POTW any of the above-enumerated substances in such amounts as to cause Pass Through or Interference, the Pretreatment Manager shall:

- (1) Advise the User(s) of the impact of the indirect discharge on the POTW; and
- (2) Impose effluent limitation(s) for such User to correct the Pass Through or Interference with the POTW. These administrative options will not in any way exempt the User from any enforcement action resulting from any violation.

102-376 National Pretreatment Standards: Categorical Standards

The Categorical Pretreatment Standards found at 40 C.F.R. Chapter I, Subchapter N, Parts 405-471, as may be periodically amended, 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 Pretreatment Manager may impose equivalent concentration or mass limits in accordance with 40 C.F.R. § 403.6(c), as may be periodically amended.
- (b) When wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same standard, the Pretreatment Manager shall impose an alternate limit using the combined wastewater formula in 40 C.F.R. § 403.6(e), as may be periodically amended.
- (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 C.F.R. § 403.13, (as may be periodically amended) 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 C.F.R. § 403.15, as may be periodically amended.

102-377 Modification of Federal Categorical Pretreatment Standards

Where the Control Authority wastewater treatment system achieves consistent removal of pollutants limited by national pretreatment standards, the Control Authority may apply to the TCEQ and/or EPA Region 6 for modification of specific limits in the national pretreatment standards. "Consistent Removal" shall mean the reduction in the amount of a pollutant or alternation of the nature of the pollutant by the wastewater treatment system to a less toxic, or

harmless, state in the effluent which is achieved by the system in ninety-five (95) percent of the samples taken when measured according to the procedures set forth in Section 403.7 (40 C.F.R. § 403.7), "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act, as may be periodically amended. The Control Authority may modify pollutant discharge limits in the National Pretreatment Standards if the requirements contained in 40 C.F.R. §403.7 (as may be periodically amended) are fulfilled and prior approval from the TCEQ and/or EPA Region 6 is obtained.

102-378 Specific Pollutant Limitations - Local Limits:

The BPUB Director of Environmental Services is authorized to establish local limits pursuant to 40 C.F.R. § 403.5 (c), as may be periodically amended. No person shall indirectly discharge wastewater containing in excess of:

| <u>Daily Average Unit</u> | <u>Parameter</u> |
|---------------------------|------------------|
| <u>498.43</u> mg/l | Aluminum |
| <u>0.2</u> mg/l | Arsenic |
| <u>1.06</u> mg/l | Cadmium |
| <u>1.03</u> mg/l | Chromium |
| <u>0.5</u> mg/l | Copper |
| <u>0.26</u> mg/l | Cyanide |
| <u>4.86</u> mg/l | Lead |
| <u>0.0002</u> mg/l | Mercury |
| <u>1.87</u> mg/l | Nickel |
| <u>0.29</u> mg/l | Selenium |

| | | |
|---------------|------|---------|
| <u>3.07</u> | mg/l | Silver |
| <u>270.31</u> | mg/l | Sulfide |
| <u>1.71</u> | mg/l | Zinc |

The above limits apply at the point where the wastewater is indirectly discharged to the POTW. Metal pollutant limits refer to “total,” unless indicated otherwise. The Pretreatment Manager may impose mass limitations in addition to the concentration-based limitations above.

(a) The Pretreatment Manager may develop Best Management Practices (BMPs), by ordinance or in individual wastewater indirect discharge permits to implement Local Limits and the requirements of Sections 102-374 and 102-375. BMPs will be applicable only when required by a categorical pretreatment standard per 40 C.F.R. § 403.6 (as may be periodically amended) and shall be fully enforceable. In such cases, the CA shall include in the CIU control mechanism the following conditions:

- (1) effluent limits, including BMPs, based on applicable general pretreatment standards, categorical pretreatment standards, local limits, and State and local law.
- (2) Requirements for the installation of treatment.
- (3) Requirements for or prohibitions on certain practices, activities, or discharges.
- (4) Requirements for operation and maintenance (O&M) of treatment units.
- (5) Reporting requirements.
- (6) IU records retention timeframe.
- (7) Any other requirements as determined by the CA and specified in writing.
- (8) Timeframes associated with key activities.

(9) Compliance certification

(10) Provision for re-opening or revoking the BMP conditions

102-379 State Requirements

State specific pollutant requirements and limitations, if any, on indirect discharges shall immediately supersede and replace the requirements and limitations imposed by this Ordinance when the State requirements are more stringent than either the Federal or local standards and requirements.

102-380 Right of Revision

The Control Authority reserves the right to establish by ordinance or in individual wastewater indirect discharge permits more stringent standards or requirements on indirect discharges to the POTW if deemed necessary to comply with the objectives presented in Section 102-371 of this Ordinance.

102-381 Dilution

No User shall ever increase the use of process or non-process water, or in any way attempt to dilute an indirect discharge, as a partial or complete substitute for adequate treatment to achieve compliance with indirect discharge limitation(s) unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Pretreatment Manager may impose mass limitation on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or other cases when the imposition of mass limitations is applicable.

102-382 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this Ordinance and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 102-375 of this Ordinance within the time limitations specified by EPA, the State, or the Pretreatment Manager, 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 operation procedures shall be submitted to the Pretreatment Manager for review, and shall be acceptable to the Pretreatment Manager before such facilities are installed, constructed or operated. The review of such plans and operation procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce an indirect discharge acceptable to the Brownsville Public Utilities Board under the provisions of this Ordinance.

102-383 Fats, Oils and Greases (FOG); Dental Amalgam Waste; Purpose, Policy, and Administration

(a) The purpose of Sections 102-383 through 102-388 of Division 2 is the regulation of the generation and disposal of grease trap waste, grease interceptor waste, grit interceptor waste, dental/amalgam waste and oil/water separator waste for the federal and state compliance and protection of the publicly owned treatment works (POTW) of the City of Brownsville and the environment.

- (b) The objective of this part of Division 2 is to reduce the number of sanitary sewer blockages, overflows, and excess loading at the POTW, and comply with federal and state regulations.
- (c) This part of Division 2 shall also be administered, implemented, and enforced by the Brownsville Public Utilities Board Pretreatment Manager under the authority and supervision of the BPUB Director of Environmental Services.

102-384 Applicability and Prohibitions

- (a) This part of Division 2 shall apply to all non-domestic Users of the publicly owned treatment works (POTW) of the City, as defined in Section 102-372 of Division 1.
- (b) Grease traps, grease interceptors, grit interceptors, amalgam separators, and oil/water separators shall not be required for domestic residential Users.
- (c) Facilities generating fats, oils, or greases as a result of food manufacturing, processing, preparation, or food service shall install, use, and maintain appropriate grease interceptors or grease traps as required in Section 102-385 of this Division 2. These facilities include, but are not limited to, restaurants, food manufacturers, food processors, hospitals, hotels and motels, prisons, nursing homes, day care centers, and any other facility preparing, serving, or otherwise making any foodstuff available for consumption.
- (d) Smaller grease traps and alternative grease removal devices are prohibited at new construction for new food service establishments.
- (e) A food service establishment seeking to open at a facility that requires plumbing renovations may apply (in writing) for installation of a smaller grease trap when:

- (1) Existing plumbing structure does not provide adequate space for the installation of a larger grease interceptor.
 - (2) Interior grease traps or alternative removal devices servicing grease indirect discharge points such as the primary pot-washing sinks, the pre-rinse sink at dishwashing, the wok range station or the wet-type ventilation canopy in the cooking area, are used as inside isolation and containment devices to supplement a grease interceptor that is located outside.
 - (3) Less than 20,000 gallons of water is consumed per month, and written approval from the Pretreatment Manager is received.
- (f) Facilities indirectly discharging petroleum products, sand, grit, or other inorganic particles as a result of a commercial/institutional/industrial automobile repair service or washing establishment shall install, use and maintain appropriate grit interceptors or oil/water separators as required in Section 102-385 of this Division 2. These facilities include, but are not limited to, car washes, automotive repair and body shops and other industrial or commercial facilities.
- (g) Facilities that practice general dentistry or large dental facilities that either use or remove dental amalgam as part of the practice must install, operate, and maintain an amalgam separator as required in Section 102-385 of this Division 2. These facilities include, but are not limited to, dental institutions, permanent or temporary dental offices, dental clinics, home offices and teaching facilities operated by federal, state or local governments that indirectly discharge wastewater to the POTW.

- (h) No User may intentionally or unintentionally allow the indirect discharge of any petroleum oil, non-biodegradable cutting oil, mineral oil, or any fats, oils, or greases of animal or vegetable origin into the POTW system in such amounts as to cause interference with the collection and treatment system, or as to cause pollutants to pass through the treatment works as a direct discharge into the environment.
- (i) The following facilities may be considered for exemption from the requirements herein, pending final approval from Pretreatment Manager: a) snow cones/raspa stands that serve only ice-based desserts; b) facilities that serve only precooked foods or beverages, and no dish washing is performed at the facility; c) home care centers with a maximum capacity of 12 customers, as specified in the City of Brownsville Certificate of Occupancy (not including attendant staff); d) day care centers provided with catered food brought in from a separate food preparation facility (catering business shall retrieve all kitchenware to be washed at their registered FSE); e) facilities that are not connected to the POTW system of the City.
- (j) The following dental facilities are exempt from the requirements herein: a) dental dischargers that do not indirectly discharge any amalgam process wastewater to a POTW, such as dental dischargers that collect all dental amalgam process wastewater for transfer to a Centralized Waste Treatment Facility (not POTW) as defined in 40 C.F.R. part 437; b) dental dischargers that do not place dental amalgam into patients and do not remove amalgam from patients except in limited emergency or unplanned, unanticipated circumstances and that certify as such to the Control Authority; c) offices that exclusively practice one or more of the following

specialties: oral pathology, oral and maxillofacial radiology, oral and maxillofacial surgery, orthodontics, periodontics, or prosthodontics.

102-385 Installation and Maintenance Requirements for Grease Traps, Grease Interceptors, Grit Interceptors, Amalgam Separators, and Oil/Water Separators

(a) *Installations.*

- (1) *New facilities.* Food processing or food service facilities which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include a food service facility, where such facility did not previously exist, shall be required to design, install, operate and maintain a grease interceptor in accordance with the BPUB sizing formula and specifications listed in Section 102-386 of this Division 2, unless the facility is exempt as listed in Section 102-384 of this Division 2. Commercial/institutional/industrial automotive service and washing facilities which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include an automotive service or washing facility, where such facility did not previously exist, shall be required to design, install, operate and maintain a grit interceptor or oil/water separator in accordance with the BPUB sizing formula and specifications listed in Section 102-386 of this Division 2. Dental facilities which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include a dental service facility, where such facility did not previously exist, shall complete and submit a One-Time Compliance Report and shall be required to design, install, operate and maintain an amalgam separator in accordance with the ANSI/ADA criteria as

outlined in 40 C.F.R. § 441, unless the facility is exempt as listed in Section 102-384 (i) of this Ordinance. Additionally, a sample collection point shall be installed according to BPUB specifications for any grease trap, grease interceptor, grit interceptor, amalgam separator or oil/water separator. Grease traps, grease interceptors, grit interceptors, amalgam separators and oil/water separators shall be inspected and approved by the BPUB pretreatment department prior to the City of Brownsville issuing Certificate of Occupancy.

- (2) *Existing facilities.* Existing grease traps, grease interceptors, grit interceptors, amalgam separators and oil/water separators must be operated and maintained in accordance with this Division 2, unless specified in writing and approved by the BPUB Pretreatment Manager. Additionally, a sample collection point shall be installed according to BPUB specifications for any grease trap, grease interceptor, grit interceptor or oil/water separator.
- (3) Existing undersized, inoperable, or defective grease traps, grease interceptors, grit interceptors, amalgam separators or oil/water separators may be required to be replaced, repaired or upgraded within a reasonable time.
- (4) All grease trap, grease interceptor, grit interceptor, amalgam separator and oil/water separator waste extracted, shall be properly disposed of by a registered waste hauler at a licensed/certified facility in accordance with federal, State, or local regulation.

(b) *Cleaning and maintenance.*

- (1) Grease traps, grease interceptors, grit interceptors, amalgam separators and oil/water separators shall be maintained in an efficient operating condition at all times.
- (2) Each grease trap, grease interceptor, grit interceptor or oil/water separator pumped shall be fully evacuated unless the trap or interceptor volume is greater than the tank capacity on the vacuum truck, in which case the transporter shall arrange for additional transportation capacity so that the grease trap, grease interceptor, grit interceptor or oil/water separator is fully evacuated within a 24-hour period, in accordance with 30 Texas Administrative Code § 312.143(c), as may be periodically amended.
- (3) Amalgam separators shall be maintained in accordance with the manufacturer's operating manual recommendations. The manufacturer's manual must provide instructions for use, including the frequency for inspection and collecting container replacement such that the unit is replaced once it has reached the maximum filling level at which the device can perform to the specified efficiency (at least 95 percent removal efficiency).
- (4) The BPUB Pretreatment Department encourages the use of approved best management practices (BMPs) for commercial establishments to reduce or eliminate the amount of pollution indirectly discharged into the POTW.

(c) *Cleaning schedules.*

- (1) Grease interceptors, grit interceptors and oil/water separators shall be completely evacuated and cleaned a minimum of every ninety (90) calendar days or more often when necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the grease interceptor, grit interceptor or oil/water separator; to ensure the

indirect discharge is in compliance with local discharge limits; to ensure no visible oil and/or grease is observed in the indirect discharge; or when the following conditions exist:

- a. Twenty-five (25%) percent or more of the wetted height of the grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or greases;
 - b. The indirect discharge exceeds BOD, COD, TSS, FOG, pH, or other pollutant levels established by the BPUB; or
 - c. If there is a history of non-compliance.
- (2) Any person who owns or operates a grease interceptor, grit interceptor or oil/water separator may submit to the BPUB Pretreatment Manager a request in writing for an exemption to the ninety (90) calendar day pumping frequency of their grease interceptor, grit interceptor or oil/water separator. The BPUB Pretreatment Manager may grant a written extension for required cleaning frequency on a case-by-case basis when:
- a. The grease interceptor, grit interceptor or oil/water separator has been sized according to the BPUB sizing formula and the grease interceptor, grit interceptor or oil/water separator owner/operator has demonstrated the specific grease interceptor, grit interceptor or oil/water separator will produce an effluent, based on defensible analytical results, in consistent compliance with established local discharge limits such as BOD, TSS, FOG, or other parameters as determined by the BPUB, or

b. Less than twenty-five (25%) percent of the wetted height of the grease interceptor, grit interceptor or oil/water separator, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or greases

(3) In any event, grease interceptors, grit interceptors and oil/water separators shall be fully evacuated, cleaned, and inspected at least once every one hundred eighty (180) calendar days.

(4) Grease traps shall be completely evacuated and cleaned a minimum of every thirty (30) calendar days or more often when necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the grease trap; to ensure the indirect discharge is in compliance with Local Limits; to ensure no visible oil and/or grease is observed in the indirect discharge; or when the following conditions exist:

a. The indirect discharge exceeds BOD, COD, TSS, FOG, pH, or other pollutant levels established by the BPUB; or

b. If there is a history of User non-compliance.

(d) *Manifest and Record Keeping requirements.*

(1) Each pump-out of a grease interceptor, grit interceptor, oil/water separator, or grease trap that is not cleaned as described in subsection 102-385 (c) above, must be accompanied by a manifest to be used for record keeping purposes.

(2) Persons who generate, collect and transport grease trap waste, grease interceptor waste, grit interceptor waste, or oil/water separator waste shall maintain a record of each

individual collection, deposit to recycler, or disposal. Such records shall be in the form of a manifest. The manifest shall include:

- a. Name, address, telephone, and TCEQ registration number of transporter;
- b. Name, signature, address, and phone number of the generator of the waste and the date collected;
- c. Type and amount(s) of waste collected or transported;
- d. Name and signature(s) of responsible person(s) collecting, transporting, and depositing or disposing of the waste;
- e. Date and place where the waste was deposited or disposed;
- f. Identification (TCEQ permit or site registration number, location, and operator) of the facility where the waste was deposited or disposed;
- g. Name and signature of facility on-site representative acknowledging receipt of the waste and the amount of waste received for recycling or disposal;
- h. The volume of the grease trap waste, grease interceptor waste, grit interceptor waste or oil/water separator waste received; and
- i. A consecutive numerical tracking number to assist transporters, waste generators, and regulating authorities in tracking the volume of grease transported.

(3) Manifests shall be divided into five (5) parts and records shall be maintained as follows:

- a. One part of the manifest shall have the generator and transporter information completed and shall be given to the generator at the time of waste pickup.

- b. The remaining four (4) parts of the manifest shall have all required information completely filled out and signed by the appropriate parties before distribution of the manifest.
 - c. One part of the manifest shall be submitted to the receiving facility (recycler or disposer).
 - d. One part of the manifest shall be submitted to the transporter, who shall retain a copy of all manifests showing the collection and disposition of waste transported.
 - e. One copy of the manifest shall be returned by the transporter to the generator within fifteen (15) calendar days after the waste is received at the disposal or processing/recycling facility.
 - f. One part of the manifest shall be submitted to the BPUB Pretreatment Department, as the local monitoring and regulatory CA.
- (4) Last three (3) copies of manifests returned to the waste generator shall be kept and be readily available for review by the BPUB pretreatment personnel.
- (5) One-Time Compliance Report deadlines. For existing sources, a One-Time Compliance Report must be submitted to the Control Authority within 45 calendar days of the passage of this Ordinance, or 90 calendar days after a transfer of ownership. For new sources, a One-Time Compliance Report must be submitted to the Control Authority no later than 90 calendar days following the introduction of wastewater into a POTW.

- (6) The One-Time Compliance Report shall be retained as long as a dental discharger, subject to this subsection is in operation, or until ownership is transferred. In addition, the dental discharger or an agent or representative of the dental discharger must maintain the One-Time Compliance Report required at paragraph (5) of this section and make it available for inspection in either physical or electronic form.
- (7) Persons who generate, collect and transport amalgam waste shall maintain a record of each individual collection, deposit to recycler, or disposal. Such events shall be recorded in a maintenance log and must be available for inspection by BPUB Pretreatment personnel.

(e) *Alternative treatment.*

- (1) A person commits a violation if he introduces, causes, permits, or suffers the introduction of a grit or garbage grinder, any surfactant, solvent, bacteria, or emulsifier into a grease trap, grease interceptor, grit interceptor or oil/water separator. Surfactants, solvents, bacteria, and emulsifiers are materials which allow the grease to pass from the grease trap, grease interceptor, grit interceptor or oil/water separator, into the sanitary sewer collection system, and include but are not limited to, enzymes, microbial agents, soap, diesel, kerosene, terpene, and other solvents.
- (2) It is an affirmative defense to an enforcement of subsection 102-385(f)(1) immediately above, that the use of reasonable amounts of surfactants or soaps is incidental to normal commercial/industrial kitchen hygiene operations.

102-386 Sizing and Design Criteria

(a) *Grease traps.*

- (1) Grease traps shall have a minimum capacity of fifty (50) gallons.
- (2) Grease traps shall not receive liquid waste from a dishwasher appliance.
- (3) Grease traps shall be installed in strict accordance with the manufacturer's instructions.
Grease traps shall be equipped with a cover and a mechanism for secure closure.
- (4) Grease traps shall be installed such that they are easily accessible for inspection, cleaning and removal of FOG and solid material.
- (5) A sample collection point shall be installed according to BPUB specifications.

(b) *Grease interceptors.*

- (1) Grease interceptors must capture liquid waste from dishwasher appliances, pre-rinse/pre-wash sinks or sinks in dishwashing areas, compartment sinks, wok stoves, self-cleaning ventilation hoods, kitchen floor drains, floor sinks, mop sinks, food preparation sinks, hand sinks, and garbage disposers.
- (2) Grease interceptors shall be sized according to the BPUB sizing formula. Where the sizing formula calculates a grease interceptor size less than five hundred (500) gallons, the size shall be five hundred (500) gallons.
- (3) Grease interceptors shall have a minimum of two (2) compartments with fittings designed for grease retention.

- (4) Grease interceptors shall have a manhole for each compartment to provide access for cleaning all areas of the interceptor. Manhole covers shall be gas tight in construction having a minimum opening dimension of twenty (20) inches.
- (5) In areas where vehicle traffic exists, the grease interceptor shall be designed for adequate public traffic load bearing capacity.
- (6) Grease interceptors shall be installed such that they are easily accessible for inspection, cleaning and removal of grease interceptor waste.
- (7) A sample collection point shall be installed according to BPUB specifications.

(c) *Grit interceptors and oil/water separators.*

- (1) Grit interceptors and oil/water separators shall be designed, constructed and installed in accordance with the BPUB sizing formula and specifications.
- (2) Grit interceptors and oil/water separators shall have a manhole for each compartment to provide access for cleaning all areas of the interceptor. Manhole covers shall be gas tight in construction having a minimum opening dimension of twenty (20) inches.
- (3) In areas where vehicle traffic exists, the grit interceptor or oil/water separator shall be designed for adequate public traffic load bearing capacity.
- (4) Grit interceptors and oil/water separators shall be installed such that they are easily accessible for inspection, cleaning and removal of grit and oily waste.
- (5) A sample collection point shall be installed according to BPUB specifications.

(d) Amalgam Separators

- 1) Amalgam separator(s) must be sized to accommodate the maximum indirect discharge rate of amalgam process wastewater.
- 2) Amalgam separator(s) must be inspected in accordance with the manufacturer's operating manual to ensure proper operation and maintenance of the separator(s) and to confirm that all amalgam process wastewater is flowing through the amalgam retaining portion of the amalgam separator(s).
- 3) The amalgam separator must meet the removal efficiency of at least ninety-five (95) percent of the mass of solids from all amalgam process wastewater. The removal efficiency specified by the manufacturer must be calculated in grams recorded to three decimal places, on a dry weight.
- 4) Amalgam separators shall be installed such that they are easily accessible for inspection, cleaning and removal of amalgam waste.

102-387 Excess Strength Waste Surcharge

- (a) Any generator indirectly discharging sewage that has a concentration of TSS and/or BOD in excess of the normal strength concentration shall be assessed a monthly surcharge fee, based on the analytical results for the six (6) month surcharge period and monthly water

consumption. The excess strength waste surcharge shall be calculated by the following formula:

$$[(\text{BOD} - \text{nBOD}) \times \text{A} + (\text{TSS} - \text{nTSS}) \times \text{B}] \times 8.34 \times \text{VOL}$$

Where:

BOD: BOD strength concentration in mg/L.

TSS: TSS strength concentration in mg/L.

nBOD: Normal strength sewage BOD concentration of 200 mg/L.

nTSS: Normal strength sewage TSS concentration of 200 mg/L.

A: BOD charge of .2605 per pound of excess strength BOD.

B: TSS charge of .2153 per pound of excess strength TSS.

VOL: Volume of discharge in million gallons.

The values for nBOD, nTSS (200 mg/L), A and B (per pound), shall also be set forth in the BPUB's most current Schedule of Charges and Fees, which are periodically reviewed and amended.

- (b) To determine BOD and TSS concentrations, the BPUB Pretreatment Department will sample the facility at the sampling port. The sampling frequency will be at a minimum once every six (6) months.
- (c) If the facility lacks a sampling port, then the surcharge will be determined by averaging the analytical results for BOD and TSS concentrations from all facilities.

- (d) If a facility does not agree with BPUB analytical results, then the facility has the option of hiring an independent professional environmental engineer and employ a TCEQ and/or NELAC certified laboratory to collect and analyze one additional sample at the User's expense. The BPUB Pretreatment Department must be notified at (956) 983-6510, five (5) business days before the additional sampling event to make arrangements for witnessing the sampling procedure and obtain split samples for BPUB independent analysis. The results from the additional sampling will be averaged with the routine BPUB six (6) month surcharge period results as soon as the additional sampling results become available. The averaged results will be used from the month the average was calculated to the end of the six (6) month surcharge period.
- (e) The BPUB may assess monitoring fees associated with sampling events, cost of analyses, sample shipping and any other related fees deemed necessary to carry out the regulatory monitoring requirements.

102-388 Schedule of Penalties

- (a) If the BPUB determines that a User generator is responsible for a blockage of a BPUB sanitary sewer collection system line, the BPUB is entitled to recover all reasonable operation, maintenance, and equipment costs associated with locating, mitigating and removing the blockage, including associated administrative, technical consulting and legal support charges.

- (b) Any person violating any of the provisions of this part of Division 2 shall also be subject to a municipal fine of up to \$2,000.00 as determined by a Brownsville municipal court judge.

102-389 Accidental Discharge/Slug Control Plans

At least once within a year of the IU being designated as “significant,” the Pretreatment Manager shall evaluate whether each Significant Industrial User needs an accidental discharge/slug control plan or other action to control Slug Discharges. The Pretreatment Manager may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. 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 Pretreatment Manager of any accidental or slug discharge, as required by Section 102-390 of this Ordinance including any discharge that would violate a prohibition under 40 C.F.R. § 403.5(b) (as may be periodically amended) with procedures for follow-up written notification within five (5) calendar days; 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.

Upon the Pretreatment Manager requiring an SIU to develop an accidental discharge/slug control plan, the SIU's plan including all procedures and measures to control potential slug-related discharges shall be evaluated as part of the annual CA inspection. The Control Authority shall keep records of the activities associated with slug control evaluation and make the results available to the Approval Authority upon request.

102-390 Notification

The permittee (User) shall immediately telephone and notify the Control Authority upon the occurrence of an accidental discharge. The notification shall include location of discharge, type of waste, concentration and volume, and corrective action taken. In addition, the permittee shall submit to the Control Authority a detailed written report within five (5) calendar days following an accidental discharge. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural environmental 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 Ordinance.

The User report shall specify:

- (a) Description and cause of the upset, slug load or accidental discharge, the cause thereof, and the impact on the permittee's compliance status. The description should also include location of discharge, type, concentration and volume of waste.

(b) Duration of noncompliance, including exact dates and times of non-compliance and, if the noncompliance is continuing, the time by which User compliance is reasonably expected to occur.

(c) All steps taken or to be taken to reduce, eliminate, and/or prevent recurrence of such an upset, slug load, accidental discharge, or other conditions of noncompliance.

102-391 Notice to Employees

A notice shall be permanently posted in the User's payroll distribution area or other prominent employee routine gathering place in the User's facility, advising employees whom to call in the event of a dangerous indirect or direct discharge. Employers shall insure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

102-392 Hazardous Wastes

Users that generate industrial and Hazardous Wastes, as defined in 40 C.F.R. § 261.3, (as may be periodically amended) shall comply with all regulations of the U. S. Environmental Protection Agency and, the Texas Commission on Environmental Quality. Such Users shall maintain records of the types and quantities of wastes generated, the name of any waste transporter and the site of disposal. These records shall be made available for inspection by the Control Authority at any reasonable time. Transporters transporting hazardous wastes must have the applicable Texas Commission on Environmental Quality permit and use the appropriate current manifest system. The Control Authority shall be allowed to inspect vehicles for proper operations, registration, manifests, and contents.

DIVISION 3 - FEES

102-393 Purpose

It is the purpose of this Division 3 to provide for the recovery of costs from non-domestic Users of the BPUB's wastewater disposal system for the implementation and continued operation of the Pretreatment Program established herein. The applicable charges or fees shall also be set forth in the BPUB's Schedule of Charges and Fees, which may be periodically amended by the BPUB upon approval by the City Commission.

102-394 Charges and Fees

The Control Authority is authorized to adopt a Schedule of Charges and Fees subject to approval by the City Commission which may include:

- (a) Fees for reimbursement of costs for setting up, operating and updating the BPUB Pretreatment Program;
- (b) Fees for monitoring, inspections and surveillance procedures;
- (c) Fees for reviewing accidental indirect or direct discharge procedures and private pretreatment construction;
- (d) Fees for developing and reviewing User permit applications;
- (e) Fees for filing appeals;
- (f) Fees for consistent removal by the Control Authority of pollutants otherwise subject to Federal Pretreatment Standards;

- (g) Excess Strength Waste Surcharge as set forth in Division 2, Section 102-387;
- (h) Other fees as the Control Authority may deem necessary to carry out the requirements contained herein.

These BPUB fees relate solely to the matters covered by this Non-Domestic Wastewater Pretreatment Ordinance and are separate from all other utility fees otherwise chargeable by the City through BPUB.

DIVISION 4 - ADMINISTRATION BY PERMIT

102-395 Industrial User Pretreatment Permits

102-396 Permit Requirements

- (a) All non-domestic Users must notify the Pretreatment Manager of the nature and characteristics of their wastewater prior to commencing their indirect discharge. The Pretreatment Manager is authorized to prepare a form (as may be periodically amended by the BPUB) for this purpose. The Pretreatment Manager may deny or condition any new indirect discharges of pollutants into the POTW.
- (b) It shall be unlawful for Significant Industrial Users to indirectly discharge wastewater into the BPUB's sanitary sewer system (POTW) without first obtaining an Industrial User Pretreatment Permit from the Pretreatment Manager. Any violation of the terms and conditions of these permits is deemed a violation of this Ordinance. This permit shall be in addition to all other required permits. Obtaining an individual wastewater indirect discharge permit does not relieve a permittee of its obligation to comply with all federal

and State pretreatment standards or requirements or with other requirements of Federal, State, and local law.

(c) The Pretreatment Manager may require that other Industrial Users, including liquid waste haulers of domestic and/or industrial holding tank waste, obtain an Industrial User Pretreatment Permit as necessary to carry out the purpose of this Ordinance.

(d) If another municipality, or User located within another municipality, contributes wastewater flow to the POTW, the Control Authority shall enter into an interlocal agreement with the flow-contributing municipality. Prior to entering into an agreement the Control Authority shall request the following information from the municipality.

- 1) A description of the quality and volume of wastewater indirectly discharged to the POTW by the flow-contributing municipality;
- 2) An inventory of all Users located within the flow-contributing municipality that are indirectly discharging to the POTW; and
- 3) Such other information as the Pretreatment Manager may deem necessary

An interlocal agreement shall contain the following conditions:

- (1) a requirement for the flow-contributing municipality to adopt and enforce a sewer use ordinance and local limits (including fines and penalties) at least as stringent as this Ordinance including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in Section 102-408 of this Ordinance. The requirement shall specify that such ordinance and limits must be periodically revised as necessary to reflect changes made to the BPUB Control Authority's Ordinance or Local Limits;

- (2) a requirement that a flow-contributing municipality submit its local revised user inventory on at least an annual basis, or more often as required by the BPUB Pretreatment Manager;
- (3) a provision specifying which pretreatment implementation activities, including individual user wastewater indirect discharge permit issuances, inspection and sampling, and enforcement, will be conducted by the flow-contributing municipality; which of these activities will be conducted by the Control Authority; and which of these activities will be conducted jointly by the flow-contributing municipality and the Control Authority.
- (4) a requirement for the flow-contributing municipality to provide the Control Authority with access to all information that the flow-contributing municipality obtains as part of its pretreatment activities.
- (5) Limits on the nature, quality, and volume of the flow-contributing municipality's wastewater indirect discharge at the point of flow entry to the POTW;
- (6) a requirement that a flow-contributing municipality monitor, report and keep records on its indirect discharge of flow volume to the POTW.
- (7) A provision that ensures the Control Authority access to the facilities of Users located within the flow-contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Control Authority; and

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

(e) Unless a permit application has already been submitted six (6) months prior to the effective date of this Ordinance, the following submission deadline requirements shall apply for the permit application in Section 102-397 below:

(i) Existing Significant Industrial Users: within ninety (90) calendar days of a determination as a Significant Industrial User by the Control Authority, or within ninety (90) calendar days of the effective date of this Ordinance, whichever is later; and

(ii) Any New Source, or sources that become Industrial Users subsequent to the promulgation of applicable Categorical Standards, or any New Connection that is a Significant Noncategorical Industrial User: at least thirty (30) calendar days prior to commencement of indirect discharge to the Control Authority for Noncategorical Industrial Users, and at least ninety (90) calendar days prior to commencement of indirect discharge to the Control Authority for POTW Categorical Industrial Users.

102-397 Permit Application

All Users required to obtain an Industrial User Pretreatment Permit shall complete and file with the Control Authority an application in the form prescribed by the Control Authority (as may be periodically amended) and accompanied by the fee prescribed by the Control Authority Schedule of Charges and Fees.

In support of the application, the User shall submit, in units and terms appropriate for evaluation, the following information, at a minimum, but not limited to:

- (a) Name, address, and location (if different from the address);
- (b) SIC code number according to the Federal Standard Industrial Classification Manual, issued by the Executive Office of the President, Office of Management and Budget, 1972 and any amendments thereto;
- (c) Wastewater constituent concentration and characteristics, including but not limited to, those mentioned in Division 2 of this Ordinance and any pollutants which are limited by any Federal, State or local standards. Sampling and analysis shall be performed in accordance with 40 C.F.R. Part 136. New Sources may give estimates of the information requested in paragraphs (c), (d) and (e) of this Section.
- (d) Time and duration of the indirect discharge;
- (e) Average daily and three (3) minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
- (f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;
- (g) Each product produced by type, amount, processor and rate of production;
- (h) Description of activities, facilities and plant processes on the premises, including all materials which are or could be indirectly or directly discharged;
- (i) Type and amount of raw materials processed (average and maximum per day);
- (j) Number and type of employees, and hours of operation, and proposed or actual hours of operation of the pretreatment systems;

(k) A statement regarding whether or not the Pretreatment Standards are being met and if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the User to meet applicable Pretreatment Standards;

(l) If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards then the Industrial User shall provide the shortest reasonable and feasible 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 Standards. The following conditions shall apply to this schedule:

(1) The schedule shall contain increments of progress (milestone dates) 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 (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);

(2) No increment referred to in paragraph (1) above shall exceed nine (9) months, nor shall the maximum total compliance period exceed that of the applicable federal categorical standards. The Control Authority, however, may issue a shorter schedule to the User as necessary;

(3) No later than fourteen (14) calendar days following each milestone compliance date in the schedule and the final date for compliance, the User shall submit a progress report to the Pretreatment Manager, including, as a minimum, whether or

not it complied with the increment of progress to be met on such date(s) and, if not, the date(s) on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Pretreatment Manager.

(m) Specific location of existing or proposed monitoring facilities.

(n) Any other information as may be deemed by the Control Authority to be necessary to evaluate the permit application.

(o) All wastewater indirect discharge permit applications must be signed by a legally authorized representative of the User and shall contain the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified User 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.”

The Control Authority will evaluate the data furnished by the User and may require additional information. After evaluation and acceptance of the data furnished, the Control Authority may issue an Industrial User Pretreatment Permit subject to terms and conditions provided herein.

102-398 Permit Modifications

Permits may be modified by the Pretreatment Manager for just cause, upon thirty (30) calendar days advanced written notice to the permittee. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. Just cause shall include, but not be limited to:

- (a) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
 - (b) Material or substantial alterations or additions to the discharger's operation, processes, or wastewater volume or character which were not covered in the prior effective permit;
 - (c) A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized indirect discharge;
 - (d) Information indicating that the permitted indirect discharge poses a threat to the Control Authority's collection and treatment systems, POTW personnel or the POTW effluent direct discharge to the receiving waters;
 - (e) Violation of any terms or conditions of the applicable permit;
 - (f) Misrepresentation or failure to fully disclose all relevant facts in the permit application or in any required reporting;
 - (g) Revision of or a grant of variance from such categorical standards pursuant to 40 C.F.R. 403.13, as may be periodically amended.
 - (h) To correct typographical or other errors in the permit;
 - (i) To reflect transfer of the facility ownership and/or operation to a new owner/operator;
- or

- (j) Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, rules and regulations.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not legally “stay” any existing permit conditions.

102-399 Permit Conditions

Industrial User Pretreatment Permits shall be expressly subject to all provisions of this Ordinance and all other applicable regulations, User charges and fees established by the Control Authority.

Permits shall contain at a minimum, the following conditions:

- (a) Statement of duration, which in no event shall exceed five (5) years and must include permit issuance, expiration, and effective dates.
- (b) Statement of non-transferability without, at a minimum, prior written notification to the POTW Control Authority, provision of a copy of the existing control mechanism to the new owner or operator, and written approval by the Pretreatment Manager as required in Section 102-402.
- (c) Effluent limits, including Best Management Practices, based on applicable general pretreatment standards in 40 C.F.R. 403, (as may be periodically amended) Categorical Pretreatment Standards, local limits, and State and local law;
- (d) Self-monitoring, sampling, operation and maintenance, reporting, notification and recordkeeping requirements, including an identification of the pollutants (or Best Management Practice) to be monitored, sampling location, sampling protocol, sampling

frequency, and sample type, based on the applicable general pretreatment standards in 40 C.F.R. 403 (as may be periodically amended), Categorical Pretreatment Standards, local limits, and State and local laws;

(e) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal and State deadlines.

(f) Requirements to control Slug Discharge, if determined by the Pretreatment Manager to be necessary.

(g) All wastewater samples must be representative of the User's indirect 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 indirect discharge.

(h) The Pretreatment Manager may immediately suspend a User's indirect or any direct discharge, after informal oral notice to the User, followed-up by a written notice within twenty-four (24) hours, whenever such immediate suspension is necessary to stop an actual or threatened indirect or any direct discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons and or the environment. The Pretreatment Manager may also immediately suspend a User's indirect or any direct discharge, after written notice that sets forth a User opportunity to respond within twenty-four (24) hours, to

correct conditions that threaten 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 indirect or any direct discharge shall immediately stop or eliminate its flow generation. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Pretreatment Manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its effluent receiving stream, or endangerment to any individuals. The Pretreatment Manager may allow the User to recommence its indirect discharge when the User has demonstrated to the satisfaction of the Pretreatment Manager that the period of endangerment has passed, unless the termination proceedings in Section 102-435 of this Ordinance are initiated by the Control Authority against the User.
- b. A User that is responsible, in whole or in part, for any indirect or direct discharge presenting imminent endangerment shall submit to the Pretreatment Manager a detailed written statement, describing the causes of the harmful flow generation and the measures taken to prevent any future occurrence prior to the date of any "show cause" or "termination hearing" under Sections 102-430 or 102-435 of this Ordinance.
 - (i) Other conditions as deemed appropriate by the Pretreatment Manager to ensure compliance with this Ordinance, and State and Federal Laws, rules, and regulations.

102-400 Permit Issuance

102-401 Permit Duration

Permits shall be issued for a specified time period not to exceed five (5) years.

102-402 Permit Transfer

Wastewater indirect discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) calendar days advance written notice to the Pretreatment Manager and the Pretreatment Manager approves the wastewater indirect discharge permit transfer in writing. The notice to the Pretreatment Manager must include a written certification by the new owner or operator which:

- (a) States that the new owner 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
- Acknowledges full responsibility for complying with the existing permit.

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

The Pretreatment Manager, within ten (10) working days of receiving the permit transfer request, will respond to the entities (permittee and transferee) in writing. In the event the Pretreatment Manager denies the request, the new owner/operator must submit a permit application in accordance with Section 102-397 above.

102-403 Permit Appeals

Once a final permit has been issued by the Pretreatment Manager, any citizen, including the Industrial User, may petition the Control Authority's General Manager in writing to reconsider the permit decision. Failure to submit a written petition for review in accordance with the conditions below shall be deemed to be a waiver of the appeal.

- (a) This permit appeal must be filed no later than thirty (30) calendar days after the permit was received by the Industrial User.
- (b) In its notice to the BPUB General Manager, the appealing party must indicate the permit provisions objected to, the reasons for this objection, and the alternative condition(s) it seeks to be placed in the permit.
- (c) The effectiveness of the permit shall not be "legally stayed" pending a reconsideration by the General Manager. If, after considering the petition and any arguments made by the BPUB Director of Environmental Services, and Pretreatment Manager, the General Manager determines that permit reconsideration is proper, it shall remand the permit back to the Pretreatment Manager for revision and reissuance. Those permit provisions being reconsidered by the Pretreatment Manager shall be "legally stayed" pending permit reissuance.
- (d) A General Manager's decision not to reconsider a final permit appeal shall be a prerequisite to appeal to any court having jurisdiction.
- (e) Aggrieved parties seeking judicial review of the final administrative wastewater indirect discharge permit decision must do so by filing a complaint with any Cameron County,

Texas court of competent jurisdiction within the appropriate Statute of Limitations.

102-404 Permit Reissuance

The User shall apply for permit reissuance by submitting a complete permit application a minimum of ninety (90) calendar days prior to the expiration of the User's existing permit.

102-405 Continuation of Expired Permits

An expired permit will continue to be legally effective and enforceable until the permit is reissued if:

- (a) The Industrial User has submitted a complete permit application at least ninety (90) calendar days prior to the expiration date of the User's existing permit; and
- (b) The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the Industrial User.

102-406 Reporting Requirements

102-407 Reporting Requirements for Categorical Industrial Users

102-408 Baseline Monitoring Report

Within one hundred and eighty (180) calendar days after the effective date of a Categorical Pretreatment Standard, or one hundred and eighty (180) calendar days after the final administrative decision made upon a category determination submission under 40 C.F.R. § 403.6(a)(4),

whichever is later, existing Categorical Users currently indirectly discharging to or scheduled to indirectly discharge to the POTW, shall submit to the Pretreatment Manager a report which contains the information listed in subparagraphs (a)-(g) of this Section.

Where reports containing the information listed in subparagraphs (a) – (e), (g) and (i) of this Section have already been submitted to the Director or Regional Administrator, the Industrial User will not be required to submit this information again. At least ninety (90) calendar days prior to commencement of indirect discharge, New User Sources, and Sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall be required to submit to the Pretreatment Manager a report which contains the information listed in subparagraphs (a)-(e), (g), and (i) of this Section. New Sources shall report information on the method of pretreatment the Source intends to use to meet applicable pretreatment standards. New Sources shall give estimates of the information requested in subparagraphs (d) and (e) of this Section:

- (a) Identifying information. The User shall submit the name and address of the facility including the name of the operator and owners;
- (b) Permits. The User shall submit a list of any environmental control permits held by or for the facility;
- (c) Description of operations. The User shall submit a brief description of the nature, average rate of production including each product produced by type, amount, processes, and rate of production, and Standard Industrial Classification code of the operation(s) carried out by such Industrial User. This description should include a schematic process

diagram which indicates Point of Indirect Discharge to the POTW from the regulated processes.

(d) Flow measurement. The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

- (1) Regulated process streams; and
- (2) Other streams as necessary to allow use of the combined waste stream formula of 40 C.F.R. § 403.6(e). (See subparagraph (e)(5) of this Section.)

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

(e) Measurement of pollutants.

- (1) The User shall identify the Pretreatment Standards applicable to each regulated process;
- (2) In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the Standard or Control Authority) of regulated pollutants in the indirect discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations;
- (3) A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics for facilities for which historical sampling data do not exist including new IUs and existing IUs that make changes or install new treatment; for facilities for which sufficient, representative

historical sampling data are available, the Pretreatment Manager may authorize (in writing) a lower minimum. For the reports required by several Sections including this Section, the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements. For all other pollutants, twenty-four (24) hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized in writing by the Control Authority. The Control Authority may waive flow-proportional composite sampling for any Industrial User that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the User demonstrates in writing that this will provide a representative sample of the effluent being indirectly discharged. Using protocols specified in 40 C.F.R. Part 136, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized in writing by the Control Authority as appropriate. Total residual chlorine, pH, and temperature samples cannot be “composited” under any circumstances. In addition, grab samples may be required

to show compliance with Instantaneous Limits. The decision to allow alternative sampling will be documented in the IU file.

(4) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this Section. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period. For sampling facilities that indirectly discharge less than twenty-four (24) hours per day, the sampling must be representative of the IU's wastewater indirect discharge. Sampling must be taken within a twenty-four (24) hour period, however, the sample should only be collected during that portion of the twenty-four (24) hour period that the IU is indirectly discharging from the:

- 1) regulated process and/or
- 2) pretreatment unit (as long as regulated process wastewater is flowing through the pretreatment unit)

During parts of the day when there is no indirect discharge of process wastewater, standing water should not be disproportionately sampled and analyzed as it would not be representative of the indirect discharge from the IU.

(5) Samples shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the User should measure the flows and concentrations

necessary to allow use of the combined waste stream formula of 40 C.F.R. § 403.6(e), in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 C.F.R. § 403.6(e), this adjusted limit along with supporting data shall be submitted to the Control Authority;

(6) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 C.F.R. Part 136 and amendments thereto. Where 40 C.F.R. Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Pretreatment Manager determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Pretreatment Manager.

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

(8) The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal User work cycles and expected pollutant indirect discharges to the POTW;

(f) Certification. A statement, reviewed by an Authorized Representative of the Industrial User and certified to by a qualified professional representing the IU, indicating whether

Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required for the Industrial User to meet the Pretreatment Standards and Requirements; and

(g) Compliance Schedule. A compliance schedule shall be included if additional pretreatment and/or O&M will be required to meet the Pretreatment Standards. The compliance schedule shall include the shortest schedule by which the Industrial User will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

(1) Where the Industrial User's categorical Pretreatment Standard has been modified by a removal allowance (40 C.F.R. § 403.7) the combined waste stream formula (40 C.F.R. § 403.6(e)), and/or a Fundamentally Different Factors variance (40 C.F.R. § 403.13) at the time the User submits the report required by Sections 102-407 thru 102-408, the information required by subparagraphs (f) and (g) of this Section shall pertain to the modified limits.

(2) If the Categorical Pretreatment Standard is modified by a removal allowance (40 C.F.R. § 403.7), the combined waste stream formula (40 C.F.R. § 403.6(e)), and/or a Fundamentally Different Factors variance (40 C.F.R. § 403.13) after the User submits the report required by Section 102-408 of this Division, any necessary amendments to the information requested by subparagraphs (f) and (g) of this Section shall be submitted by the User to the Control Authority within sixty (60) calendar days after the modified limit is approved.

(h) The following conditions shall apply to the schedule in paragraph (g):

(1) The schedule shall contain increments of progress (milestones) in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Industrial User to meet the applicable Categorical Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for acquiring major components, commencing construction, completing construction, etc.).

(2) No increment referred to in subparagraph (1) above shall exceed nine (9) months.

(3) No later than fourteen (14) calendar days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the Control Authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Control Authority.

(i) In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Pretreatment Manager or the Pretreatment Standard necessary to determine the compliance status of the User.

102-409 Categorical Standard Deadline Compliance Report

Within ninety (90) calendar days following the date for final compliance with applicable Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of indirectly discharged wastewater into the POTW, any Industrial User subject to Pretreatment Standards and Requirements shall submit to the Pretreatment Manager a report containing the information described in subparagraphs (d)-(f) and (i) of Section 102-408. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 C.F.R. § 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 indirect discharge per unit or 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 102-418.

102-410 Periodic Compliance Reports

All Significant Industrial Users are required to submit periodic compliance reports.

(a) Any Industrial User subject to Categorical Pretreatment Standards, after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the indirect discharge into the POTW, shall submit to the Pretreatment Manager during the months of June and December of each year, unless required more frequently in the Pretreatment Standard or by the local Control Authority or the State Approval Authority, a report indicating the nature and concentration of pollutants in the indirectly discharged effluent which are limited by such Pretreatment Standards. In addition, this report shall include flow measurement data for the report period as described in paragraph (d) of Section 102-408. At the discretion of the Pretreatment Manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Pretreatment Manager may alter the months during which the above reports are to be submitted. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Pretreatment Manager or the Pretreatment Standard necessary to determine the compliance status of the User.

(b) All periodic compliance reports must be signed and certified in accordance with Section 102-418 of this Ordinance.

(c) All wastewater samples must be representative of the User's indirect 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 indirect discharge.

102-411 Reporting Requirements for Significant Noncategorical Industrial Users

102-412 Initial Compliance Report

Within ninety (90) calendar days following commencement of the introduction of indirectly discharged wastewater into the POTW, any Significant Noncategorical Industrial User that is a New Connection, shall submit to the Control Authority a report containing the information described in paragraphs (d)-(f) of the Section 102-408.

102-413 Periodic Compliance Report

Any Noncategorical Significant Industrial User, in the case of a New Connection, after ninety (90) calendar days following the commencement of the introduction of indirectly discharged wastewater into the POTW, or in the case of an existing connection, after ninety (90) calendar days of a determination as a Significant Industrial User by the Control Authority or the effective date of this Ordinance, whichever is later, shall submit to the Control Authority, at least once every six (6) months, on dates specified by the Control Authority, a description of the nature, concentration, and flow of the indirectly discharged pollutants required by the Control Authority. In addition, periodic compliance reports are subject to the same requirements for Categorical Industrial Users

as discussed in subparagraphs (a-c) of Section 102-410 and subparagraph (e)(3) of Section 102-408.

102-414 Monitoring and Analysis Requirements

(a) The reports required in Sections 102-407 thru 102-418 shall contain the results of the sampling and analysis of the indirectly discharge, including the flow and the nature of concentration, or production or mass where requested by the Control Authority, of pollutants contained therein which are limited by the applicable Federal, State or local standards.

(b) If sampling performed by an Industrial User indicates a violation, the User shall notify the Control Authority in writing 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 Control Authority within thirty (30) calendar days after becoming aware of the violation. Resampling is not required in the occurrence of the following events:

- 1) The Control Authority performs the sampling at the IU at a frequency of at least once per month.
- 2) The Control Authority performs sampling at the IU between the time when the initial sampling was conducted and the time when the IU or the Control Authority receives the results of the sampling.

(c) If the results of the resampling in subparagraph (b) above indicate continued noncompliance, the User shall submit a schedule for achieving compliance with the

applicable pretreatment standard. The compliance schedule shall meet the requirements stipulated in Section 102-407.

(d) If an Industrial User subject to the reporting requirement in this Section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Control Authority, using the procedures prescribed in subparagraph (f) of this Section, the result of this monitoring shall be included in the report.

(e) The Pretreatment Manager may impose mass limitations on Users which are using dilution to meet applicable Pretreatment Standards or Requirements or in other cases where the imposition of mass limitations is appropriate. In such cases, the Combined Wastewater Formula, as outlined in 40 C.F.R. § 403.6(e)(ii) shall be used to calculate the mass limitations; and the reports required by in Sections 102-407 thru 102-418 shall indicate the mass of pollutants regulated by Pretreatment Standards in the indirectly discharged effluent of the User. These reports shall contain the results of sampling and analysis of the indirect discharge, including the flow and the nature and concentration, or production and mass where requested by the Pretreatment Manager, of pollutants contained therein which are limited by the applicable Pretreatment Standards.

(f) All analyses including sampling techniques, to be submitted as part of a wastewater indirect discharge permit application or report shall be performed in accordance with procedures established by the Administrator pursuant to Section 304(h) of the Act (33 U.S.C. § 1314) and contained in 40 C.F.R. Part 136 and amendments thereto, unless otherwise specified in an applicable Categorical Pretreatment Standard or with any other

test procedures approved by the Administrator. Sampling shall be performed in accordance with the techniques approved by the Administrator.

Where 40 C.F.R. Part 136 does not include sampling or analytical techniques for the pollutants in question, or where the Administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the Administrator.

Additionally, these reports shall be based upon data collected during the period covered by the report and which is representative of conditions occurring during the reporting period.

102-415 Notification of Changed Indirect Discharge

All Industrial Users shall promptly notify the POTW thirty (30) calendar days in advance of any substantial change in the volume or character of pollutants in their indirect discharge, including substances, which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. Part 261, and for which the Industrial User has submitted initial notification under Section 102-416 below. The Pretreatment Manager has the right to deny or condition any increased contributions of pollutants or changes in their indirect discharge.

102-416 Notification of Hazardous Waste Indirect Discharge

(1) All Industrial Users shall notify in writing the POTW, the EPA Region 6, and the TCEQ hazardous waste authorities of any indirect discharge into the POTW of a substance,

which, if otherwise disposed of, would be hazardous waste under 40 C.F.R. Part 261. Such notifications must include the name of the hazardous waste as set forth in 40 C.F.R. Part 261, the EPA hazardous waste number, and the type of indirect discharge (continuous, batch, or other). If the Industrial User indirectly discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream indirectly discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be indirectly discharged during the following twelve (12) months. All notifications must take place within one hundred eighty (180) calendar days of the effective date of this notification rule. Industrial Users who commence indirect discharging after the effective date of this rule shall provide the notification no later than one hundred eighty (180) calendar days after commencement of the indirect discharge of the listed or characteristic hazardous waste. Any notification under this subparagraph need be submitted only once for each hazardous waste. However, notifications of changed indirect discharges must be submitted under Sections 102-415 and 102-416. The notification requirement in these Sections does not apply to pollutants already reported under the self-monitoring requirements of Sections 102-407 thru 102-418.

(2) Indirect Dischargers are exempt from the requirements of subparagraph (1) of the Section during a calendar month in which they indirectly discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as

specified in 40 C.F.R. §§ 261.30(d) and 261.33(e). Indirect 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 C.F.R. §§ 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the Industrial User indirectly discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under Section 3001 of RCRA (42 U.S.C. § 6921) identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste, the Industrial User must notify the POTW, EPA Region 6, and TCEQ hazardous waste authorities of the indirect discharge of such substance within ninety (90) days of the effective date of such regulations.

(4) In the case of any notification made under Section 102-416, the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

102-417 Notification of Potential Problems, Including Slug Loadings

All Industrial Users shall notify the Pretreatment Manager immediately of all discharges including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential operational/quality control problems for the POTW, by the Industrial User that could cause these problems, including Slug Loadings, as defined in Section 102-372, and shall submit a written report to the Pretreatment Manager within five (5) calendar days of the discovery of the

problematic discharge in accordance with the specifications of Sections 102-389 and 390. SIUs are required to notify the Pretreatment Manager immediately of any changes at its facility affecting the potential for a Slug Discharge. The Pretreatment Manager may then issue an individual wastewater indirect discharge permit under Section 102-397 of this Ordinance or modify an existing wastewater indirect discharge permit under Section 102-398 of this Ordinance in response to changed conditions or anticipated changed conditions.

102-418 Signatory Requirements

(a) Any report, certification, or application required to be submitted to the POTW by this Ordinance, including those required in Sections 102-407 thru 102-410, shall include the following certification signed by a legally Authorized Representative of the Industrial User:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified User 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.”

102-419 Monitoring Facilities

The Control Authority shall require Users to provide, maintain, and operate at the User's own expense, monitoring facilities to allow Control Authority inspection, sampling, and flow

measurement of the building sewer and/or internal drainage systems. All devices used to measure flow and quality shall be calibrated at least at the frequency suggested by the manufacturer to ensure their accuracy.

The monitoring facilities should normally be situated on the User's premises but the Control Authority may, when such a location would be impractical, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the User.

Whether constructed on public or private property, the sampling and monitoring facility shall be provided in accordance with the Control Authority's requirements and all applicable local construction standards and plumbing specifications. Construction shall be completed within ninety (90) calendar days following written notification by the Control Authority; but in no way shall the lack of monitoring facility waive or delay any of the User's reporting requirements under this Ordinance.

102-420 Compliance Inspection and Sampling

The Control Authority shall have the right to inspect and sample the facilities of any User to ascertain whether the purpose of this Ordinance is being met and all User requirements are being complied with. Persons or occupants of non-domestic premises where wastewater is generated or indirectly discharged shall allow the Control Authority or its representative bearing credible

identification ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, examination and/or copying of records, or in the performance of any of their duties. The Control Authority, TCEQ and EPA shall have the right to set up devices on the User's property as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations.

Where a User has security or safety measures in force which would require proper identification, clearance and equipment before entry into their premises, the User shall make necessary arrangements with their security guards to provide safety equipment so that upon presentation of reliable and credible identification, personnel from the Control Authority, TCEQ and EPA will be permitted to safely enter, without a delay, for the purposes of performing their specific responsibilities. Unreasonable delays in allowing the Pretreatment Manager or POTW staff access to the User's premises shall be a violation of this Ordinance.

102-421 Search Warrants

If the Control Authority or its representative has been refused access to a non-domestic building, structure or property or any part thereof, and if the Control Authority or its representative has demonstrated 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 Control Authority designed to verify compliance with this Ordinance or any permit or order issued hereunder; or to protect the overall public health, safety and welfare of the community; then upon application by the Control Authority's public or private Attorney, the Municipal Court Judge of the City of Brownsville shall issue a search and/or seizure warrant describing therein the specific

non-domestic location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Pretreatment Manager or his/her representative in the company of a uniformed police officer of the City of Brownsville. In the event of a critical emergency affecting public health and safety, inspections shall be made without issuance of a warrant.

102-422 Compliance Inspection Frequency

The Control Authority will endeavor to sample Significant Industrial Users at least semi-annually and shall inspect them at least annually.

102-423 Pretreatment

Users shall provide, operate and maintain at the User's expense any necessary on-site wastewater treatment (including BMPs) as required to comply with this Ordinance. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Control Authority for review, and shall be acceptable to the Control Authority before construction of the facility.

The review of such plans and operating procedures will in no way relieve the User from the responsibility of modifying the facility as necessary to produce an indirectly discharged effluent acceptable to the Control Authority under the provisions of this Ordinance.

Any subsequent changes in the pretreatment facilities or method of operation shall be reported in writing to and be acceptable to the Control Authority prior to the User's initiation of the changes.

102-424 Confidential Information

Information and data on a User obtained from reports, questionnaires, permit applications, permits and monitoring programs and inspections shall be available to the public or other governmental agency without restriction under the Texas Public Information Act (Texas Government Code Chap. 552), unless the User specifically requests in writing and is able to demonstrate to the satisfaction of the Control Authority that the release of such information would divulge proprietary information, processes or methods of production entitled to protection as competitive trade secrets under applicable State law. Any such User written requests for confidentiality must be asserted at the time of submission of the information or data to the Control Authority.

When requested and demonstrated by the person furnishing a report that such User 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 upon request to governmental regulatory and enforcement agencies for uses related to this Ordinance, the Texas Pollutant Discharge Elimination System (TPDES) program, or Pretreatment Program, any governmental environmental protection programs, and in any judicial review or enforcement proceedings involving the person or entity furnishing the report. The Texas Attorney General may be consulted regarding compliance with the Texas Public Information Act. Wastewater constituents already indirectly discharged into the POTW and characteristics and other “effluent data” as defined by 40 C.F.R. § 2.302(a)(2)(i) will not be recognized as confidential information and will be available to the public without restriction.

102-425 Record-Keeping Requirements

(a) Any Industrial User subject to the reporting requirements established in this Ordinance shall maintain and make available for inspection and copying, records of all information resulting from any monitoring activities required by this Section, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentations associated with Best Management Practices established under Section 102-378. Such records shall include for all samples:

- (1) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- (2) The dates analyses were performed;
- (3) Who performed the analyses;
- (4) The analytical techniques/methods used;
- (5) The results of such analyses;
- (6) Chain of custody information;
- (7) Sample preservation techniques; and
- (8) Associated quality assurance/quality control data and applicable lab certifications.

(b) Any Industrial User subject to the reporting requirements established in this Ordinance shall be required to retain for a minimum of three (3) years, any records of flow-monitoring activities and results (whether or not such monitoring activities are required by this Section), including all documentation associated with BMPs, and shall make such records

available for inspection and copying by the TCEQ Director and the USEPA Regional Administrator and POTW Pretreatment Manager.

This period of retention shall be extended during the course of any unresolved litigation regarding the Industrial User or when requested by the Director or the Regional Administrator.

DIVISION 5 - ENFORCEMENT

102-426 Administrative Enforcement Remedies

102-427 Notification of Violation

Whenever the Pretreatment Manager finds that any User has violated or is violating this Ordinance, Industrial User Pretreatment Permit, or any prohibition, limitation or requirements contained herein, the Pretreatment Manager shall serve upon such person a written notice stating the nature of the violation. Within thirty (30) calendar days of the date of the notice, a written explanation of the violation and a plan for the satisfactory correction thereof shall be submitted to the Control Authority by the User. 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 Pretreatment Manager to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation. Upon issuance of a

Notice of Violation, a compliance schedule, following the guidelines established in Section 102-408(h), shall be included if additional pretreatment and/or O&M will be required to meet the Pretreatment Standards.

102-428 Consent Orders

The Pretreatment Manager is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar written documents establishing a binding legal agreement with the Industrial User responsible for correcting the noncompliance. Such Orders shall include specific action to be taken by the Industrial User to correct the noncompliance within a time period also specified by the Order. Consent Orders shall have the same force and effect as Administrative Orders issued pursuant to Sections 102-430, 102-431 and 102-432 below.

102-429 Compliance Order

When the Pretreatment Manager finds that a User has violated, or continues to violate, any provision of this Ordinance, an individual wastewater indirect discharge permit or Order issued hereunder, or any other Pretreatment Standard or Requirement, the Pretreatment Manager may issue a Compliance Order to the User responsible for the indirect 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 indirectly discharged to the

POTW. 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 the Control Authority, taking any other legal or administrative action against the User.

102-430 Show Cause Hearing

The Pretreatment Manager may order any Industrial User which causes or contributes to violation(s) of this Ordinance or Order or Industrial User Pretreatment Permit issued hereunder, to “show cause” why a proposed BPUB/City enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the hearing, the proposed enforcement action and the reasons for such action, and a request that the User “show cause” why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) calendar days prior to the hearing.

Such notice may be served on the Authorized Representative of the Industrial User, or any principal, executive, general partner, owner, manager, or corporate officer. Whether or not a properly notified Industrial User appears as noticed, the BPUB/City may take enforcement action(s). At any hearing held pursuant to this Ordinance, testimony may be taken under oath and may be recorded. The transcript, if so recorded, will be made available to any party at the hearing, and any member of the general public of Cameron County, Texas, subject to the confidentiality provisions of Section 102-424, upon payment for the usual copying charges thereof. A show cause

hearing shall not be a bar against, or a prerequisite for the BPUB/City, taking any other legal and/or administrative action against the User.

102-431 Administrative Order

When the Pretreatment Manager finds that an Industrial User has violated or continues to violate the Ordinance or a permit or Order issued thereunder, he/she may issue an Order to the Industrial User responsible for the indirect discharge containing such requirements as might be reasonably necessary and appropriate to address the noncompliance, including but not limited to the installation of pretreatment technology, the performance of additional self-monitoring efforts, and/or the implementation of Best Management Practices. Issuance of an Administrative Order shall not be a bar against, or a prerequisite for, BPUB/City taking any other legal or administrative action against the User.

102-432 Cease and Desist Orders

When the Pretreatment Manager finds that an Industrial User has violated or continues to violate this Ordinance or any permit issued hereunder or other Pretreatment Standards or Requirements, the Pretreatment Manager may issue an Order to Cease and Desist all such violations and direct those persons in noncompliance to:

- (a) Comply within three (3) calendar days;
- (b) Comply in accordance with a compliance time schedule set forth in the Order; and/or
- (c) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting User operations and

terminating the direct or indirect discharge.

Issuance of a Cease and Desist Order shall not be a bar against, or a prerequisite for, BPUB/City taking any other legal or administrative action against the User.

102-433 Administrative Fines

Notwithstanding any other Section of this Ordinance, any User who is found to have violated any provision of this Ordinance, or permits or Orders issued hereunder or other Pretreatment Standards or Requirements, shall be fined by the BPUB/City without the need to file a complaint in Brownsville Municipal Court, in an amount not to exceed one thousand dollars (\$1,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the User's next scheduled sewer service charge and the Pretreatment Manager shall have such other collection remedies as he/she has to collect other utility service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual User's commercial/institutional/industrial private property.

Users subject to an administrative fine shall be notified in writing in advance of the proposed action and shall be offered, with the notification, an opportunity to “show cause” under Section 102-430 why the proposed action should not be taken. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, BPUB/City taking any other legal or administrative action against the User.

102-434 Emergency Suspensions

- (a) The Pretreatment Manager may suspend the wastewater treatment service and/or Pretreatment Permit of an Industrial User, after informal oral notice to the User followed

by a written notice within twenty-four (24) hours, whenever such suspension is necessary in order to stop an actual or threatened direct or indirect discharge which reasonably appears to be presenting or causing an imminent or substantial endangerment to the health or welfare of persons, damages to the POTW, or harm to the environment.

(b) Any User notified, either orally or in writing, of a suspension of the wastewater treatment service and/or an existing Industrial User Pretreatment Permit, shall immediately stop or eliminate its objectionable direct discharge to the environment, or indirect discharge to the POTW. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Pretreatment Manager shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, the effluent receiving stream and environment, or endangerment to any individuals. The Pretreatment Manager may allow the User to appear before a Control Authority Hearing prior to any recommencement of its indirect discharge to the POTW when the endangerment has passed, unless the termination proceedings set forth in Section 102-435 are previously initiated against the User.

(c) An Industrial User who is responsible, in whole or in part, for imminent endangerment to the POTW shall submit a detailed written statement to the Pretreatment Manager describing the causes of the harmful indirect discharge and the measures taken to prevent any future occurrence prior to the date of the potential Hearing described in subparagraph (b) above.

Nothing in this Section shall be interpreted as requiring a Hearing prior to any emergency service suspension by the Control Authority under this Section.

102-435 Termination of Permit

As set out in Division 4 of this Ordinance, Significant Industrial Users proposing to indirectly discharge into the POTW must first obtain an Industrial User Pretreatment Permit from the Control Authority. Any User who violates the following conditions of this Ordinance or an Industrial User Pretreatment Permit or Order, or any applicable State and/or Federal law, is subject to permit termination:

- (a) Misrepresentation or failure of a User to accurately report the wastewater constituents and characteristics of his indirect discharge to the POTW;
- (b) Failure of the User to report significant changes in operations, or wastewater constituents and characteristics prior to the changed indirect discharge to the POTW;
- (c) Falsifying self-monitoring reports and certification statements;
- (d) Tampering with BPUB (or its independent contractor's) wastewater flow monitoring equipment;
- (e) Refusing to allow timely BPUB access to all of the User's premises, facilities, records, processes, operations, or any items relevant to this Ordinance, the Texas Pollutant Discharge Elimination System (TPDES), any State or federal governmental environmental protection program, and/or the local Pretreatment Program;
- (f) Failure to meet POTW indirect discharge limitations;
- (g) Failure to pay fines;
- (h) Failure to pay sanitary sewer charges;
- (i) Failure to meet compliance schedules;

(j) Violation of any Pretreatment Standards or Requirements or permit conditions or this Ordinance.

Noncompliant Industrial Users will be notified of the proposed termination of their Industrial User Pretreatment Permit and be offered an opportunity to “show cause” under Section 102-430 of this Ordinance why the proposed action should not be taken. Exercise of this option by the POTW Pretreatment Manager shall not be a bar against, or a prerequisite for, BPUB/City taking any other legal or administrative action against the User.

102-436 Appeal

Any User who is the subject of an enforcement action under this Section has a right of appeal. The appeal must be in writing and must be received by the Office of the BPUB General Manager of the Control Authority within ten (10) calendar days of User notice of such enforcement action.

The BPUB General Manager, upon receipt of a User appeal, shall schedule a hearing after reasonable notice to the User.

At the hearing, the BPUB General Manager shall review the evidence submitted by the Control Authority as the basis for the alleged violation(s), the evidence offered by the appealing User and then notify all parties in writing of his/her decision as soon as practical.

The appealing User may be represented by an attorney and the hearing proceedings shall be recorded, if requested, at the expense of the requesting party. Appeal to the General Manager shall be a prerequisite administrative remedy prior to any appeal to any court in Cameron County.

102-437 Nuisance

It is declared to be a public nuisance to directly or indirectly discharge any sewage, industrial waste or other water borne waste in violation of this Ordinance, State or Federal Pretreatment Requirements or order of the TCEQ Approval Authority, EPA, or the local Control Authority.

102-438 Judicial Remedies

If any person indirectly discharges sewage, industrial wastes or other wastes into the City's wastewater collection and treatment system contrary to the provisions of this Ordinance, or any Order or permit issued hereunder, the Pretreatment Manager may commence a civil action for appropriate legal and/or equitable relief in any Cameron County court of competent jurisdiction.

102-439 Injunctive Relief

Whenever an Industrial User has violated or continues to violate the provisions of this Ordinance or permit or Order issued hereunder, the Pretreatment Manager on behalf of the BPUB/City, may petition a court of competent jurisdiction in Cameron County for the issuance of a restraining order and/or temporary or permanent injunction or both (as may be appropriate) which restrains or compels the activities of the Industrial User. In addition to all other remedies at law or in equity, the Control Authority may recover reasonable attorneys' fees, court costs, and other expenses associated with seeking injunctive relief. A petition for injunctive relief shall not be a bar against, or a prerequisite for, BPUB/City taking any other legal or administrative action against the User.

102-440 Civil Penalties

- (a) Any Industrial User who has violated or continues to violate this Ordinance or any Order or permit issued hereunder, shall be liable to the Control Authority for a civil penalty of not less than one thousand dollars (\$1,000.00) but not more than five thousand dollars (\$5,000.00), plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the Control Authority may recover reasonable attorneys' fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.
- (b) The Control Authority shall petition the appropriate Court to impose, assess, and recover such sums. In determining amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to: the extent of physical damage to the POTW caused by the violation; the magnitude and duration of User violation; any economic benefit gained by the User through the Industrial User's violation; any mitigating corrective actions taken by the Industrial User; the compliance history of the User; and any other factors as justice requires.

BPUB/City filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other legal or administrative action against the User.

102-441 Criminal Prosecution

102-442 Violations - Generally

(a) Any Industrial User who willfully or negligently violates any provision of this Ordinance or any Orders or permits issued hereunder shall, upon conviction in Brownsville Municipal Court, be guilty of a misdemeanor, punishable by a fine of not less than one thousand dollars (\$1,000.00) but not more than two thousand dollars (\$2,000.00) per violation per day.

102-443 Falsification

(a) Any Industrial User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this Ordinance, or Industrial User Pretreatment Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or sampling method required under this Ordinance shall, upon conviction in Brownsville Municipal Court, be punished by a fine of not less than one thousand dollars (\$1,000.00), but not more than two thousand dollars (\$2,000.00) per violation per day.

102-444 Remedies Nonexclusive

The remedies provided for in this Ordinance are not exclusive. The Control Authority may take any, all, or any combination of these legal or administrative enforcement actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with

the Control Authority's enforcement response plan. However, the Control Authority is empowered to take more than one enforcement action against any noncompliant User.

102-445 Publication of Users in Significant Noncompliance

The Pretreatment Manager shall publish annually in the largest newspaper in Brownsville, Texas, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term "Significant Noncompliance" shall be applicable to all Significant Industrial Users or any other Industrial User that violates subparagraphs (c), (d) or (h) of this Section and shall mean:

- (a) Chronic violations of wastewater indirect discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter taken during a six (6) month period equals or exceeds (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits;
- (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 numeric Pretreatment Standard or Requirement including Instantaneous Limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- (c) Any other violation of a Pretreatment Standard or Requirement as defined by 40 C.F.R. 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Pretreatment Manager determines has caused, alone or in combination with other

indirect discharges to the POTW, Interference or Pass Through, including endangering the health of POTW personnel, the general public or damage to the environment;

(d) Any direct or indirect discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Pretreatment Manager's exercise of his/her emergency authority to halt or prevent such direct or indirect discharge;

(e) Failure to meet, within ninety (90) calendar days after the schedule date, a compliance schedule milestone contained in an individual wastewater indirect discharge permit or enforcement Order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide, within thirty (30) calendar 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 meeting compliance schedules;

(g) Failure to accurately report User noncompliance; or

(h) Any other Ordinance or permit violation(s), which may include a violation of Best Management Practices, which the Pretreatment Manager determines will adversely affect the operation or implementation of the local Control Authority Pretreatment Program.

102-446 Affirmative Defenses

102-447 Act of God Defense

(a) An Industrial User who wishes to establish the Act of God affirmative defense shall demonstrate, through relevant credible evidence that:

(1) An event or excursion that would otherwise be a violation of the Pretreatment Ordinance or a permit issued under the Ordinance occurred, and the sole cause of the event was an Act of God, war, strike, riot, pandemic or other catastrophe; and

(2) The Industrial User has submitted the following information to the CA within twenty-four (24) hours of becoming aware of the event or excursion that would otherwise be a violation of the pretreatment Ordinance or a permit issued under the Ordinance (if this information is provided orally, a written User confirmation submission must be provided within five (5) calendar days);

(i) A description of the event or excursion, and the nature and cause (Act of God) of the event or excursion;

(ii) The time period of the event or excursion, including exact dates and times or, if still continuing, the anticipated time the event or excursion is expected to terminate;

(iii) All steps taken or planned by User to mitigate, reduce, eliminate, and prevent recurrence of such an upset or excursion.

(b) An Industrial User who complies with the credible evidence and notification provisions of this Section in a timely manner will not be in violation according to TEXAS

WATER CODE, Section 7.251 (“Act of God”), and if the event or excursion that would otherwise be a violation attributable to and alleged to have occurred during the period of the documented and verified event or excursion is caused solely by an Act of God, war, strike, riot, pandemic or other catastrophe.

102-448 Treatment Bypasses

(a) For the purposes of this Section,

(1) “Bypass” means the intentional diversion of indirect discharge waste streams to the POTW from any portion of a User’s treatment facility,

(2) “Severe property damage” means substantial physical damage to User property, damage to the User 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 User 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 long-term User efficient operation. These bypasses are not subject to the provisions of subparagraphs (c) and (d) of this Section.

(c) Bypass Notifications:

(1) If a User knows in advance of the need for an indirect discharge bypass, it shall submit prior written notice to the Pretreatment Manager, at least ten (10) calendar days before the date of such bypass, if possible.

(2) A User shall submit immediate oral notice to the Pretreatment Manager of an unanticipated indirect discharge bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time User becomes aware of the bypass. A written confirmational submission shall also be provided within three (3) calendar days of the time the User becomes aware of such 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 duration and User steps taken or planned to mitigate, reduce, eliminate, and prevent recurrence of the indirect discharge bypass. The Pretreatment Manager may waive the written confirmational User report on a case-by-case basis if the oral report was thorough and adequate and has been received within twenty-four (24) hours.

(d) Indirect Discharge Bypass

(1) Such a Bypass is prohibited, and the Pretreatment Manager may take an enforcement action against a User for such a bypass, unless:

(i) Such a Bypass was unavoidable to prevent loss of life, personal injury, or severe User property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed by User in the exercise of reasonable engineering judgment to prevent

such a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(iii) The User submitted notices to the Pretreatment Manager as required under subparagraph (c) of this Section.

(2) The Pretreatment Manager may approve an anticipated indirect discharge bypass, after considering its adverse effects to both private and public facilities, if the Pretreatment Manager determines that User will meet the three (3) conditions listed in subparagraph (d)(1) of this Section.

Section 102-449 - Severability

If any provision, paragraph, word, Section or Division of this Ordinance is invalidated by any court of competent jurisdiction in Cameron County, Texas, the remaining provisions, paragraphs, words, Sections, and Divisions shall not be affected and shall continue in full force and legal effect.

Section 102-450 - Conflict

All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

Section 102-451 - Effective Date

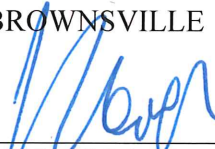
This Ordinance shall be in full force and legal effect contingent upon final approval by the TCEQ Executive Director through TPDES permit action and after the passage and publication of this Ordinance as governed by the Charter of the City of Brownsville, and the laws of the State of Texas.

INTRODUCED AND PASSED to the First Reading on the 19th day of January, A.D., 2021.

Passed to the Second and Final Reading and Approved on the 2nd day of February, A.D., 2021.

CITY OF BROWNSVILLE

BY: _____


~~Juan "Trey" Mendez, III,~~
~~Mayor~~
John Cowen, Jr.
Mayor Pro Tem

ATTEST:

BY: _____


Laure Morgan,
City Secretary

