

**MINUTES
OF
CITY OF WHARTON
REGULAR CITY COUNCIL MEETING
AUGUST 26, 2002**

Mayor Garland S. Novosad declared a Regular Meeting duly open for the transaction of business at 7:03 p.m. Councilmember Don Mueller led the opening devotion and then Mayor Garland S. Novosad led the pledge of allegiance.

Councilmembers present were: Mayor Garland S. Novosad, Councilmembers V. L. Wiley, Jr., Darryl Darnell, Ken Freese, Don Mueller, Domingo Montalvo, Jr., and Bryce D. Kocian.

Councilmember absent was: None.

Staff members present were: City Manager, Andres Garza, Jr., Finance Accountant Anne Waller, Deputy City Secretary Lisa Stavena, Assistant to City Manager Jackie Wheeler, EMS Director John Kowalik, Community Services Director Jo Knezek, and Building Official Ronnie Bollom.

Visitors present were: Ron Sanders Wharton Journal-Spectator, Paul Daly KULP, David Schroeder with WEDCo, Joey Pennington, Lindall Pennington, Chester Houston, Lewis Fortenberry, Jim Butler, I.O. Coleman, Jr., Carlos Cotton, Cody Frankum, Johnnie Lee Roberts, Glenn Erdelt, Ben Evans, Henry Thiele, Allen Maffett, Don Elliott, and Betty Mueller.

The third item on the agenda was Public Comments. No comments were given. No action was taken.

The fourth item on the agenda was the Wharton Moment. Councilmember Domingo Montalvo, Jr. publicly commended the Wharton Volunteer Fire Department and the volunteer fire fighters on the Fundraiser held on August 25, 2002 and stated that the department saves the city money. Councilmember Domingo Montalvo, Jr. stated that the city received the grant funding to assist flood victims and publicly thanked City Manager Andres Garza, Jr. and the City Staff for completion of the grant. Councilmember V. L. Wiley, Jr. publicly thanked the city and Community Services Director Jo Knezek for a great job on the grant. No action was taken.

The fifth item discussed on the agenda was to review and consider the City of Wharton Financial Report for the month of July 2002. Finance Accountant Anne Waller presented the financial report for the month of July 2002 and stated that the fiscal year was at 83%. Mrs. Waller stated that the general fund revenues were at 81.10% and the expenditures were at 84.38%. The total ad valorem taxes collected were \$1,784,256. The sales tax for the month of July 2002 was \$114,565 with \$73,377 to the City and \$38,188 to WEDCo. The TexPool balance for July 2002 was \$3,024,410.09 with an average monthly yield of 1.8936%. After some discussion, Councilmember Bryce D. Kocian made a motion to approve the financial report for the month of July 2002 as presented. Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

The sixth item discussed on the agenda was to review and consider a resolution approving a lease agreement between Dupre Transports, LLC and the City of Wharton for transport operations at the Wharton Regional Airport; Authorizing the Mayor of the City of Wharton to execute all documents relating to said agreement. City Manager Andres Garza, Jr. informed the City Council that the Wharton Regional Airport Board held a special meeting Friday, August 23, 2002 to discuss the agreement between Dupre Transport, LLC and the City of Wharton for transport operations at the Wharton Regional Airport. He then presented a recommendation from the Wharton Regional Airport Board recommending approval of the proposed agreement with the site change as identified in the site plan. City Attorney Paul Webb recommended the City Council publish in the Wharton Journal Spectator to allow any other interested party the opportunity to lease the property, Jr. stated that the airport property would be used for non-aviation use, which required Texas Department of Transportation approval. After some discussion, no action was taken.

The seventh item discussed on the agenda was Executive Session: City Council may adjourn into an Executive Session in accordance with Section 551.071 and 551.074 of the Government Code, Revised Civil Statutes of Texas. Final action, decision or vote, if any with regard to any matter considered in Executive Session shall be made in Open Meeting.

A. Discussion: Pending Litigation with Kent Hunt.

B. Discussion: Evaluation of the City Manager.

Mayor Garland S. Novosad adjourned into Executive Session at 7:18 p.m.

Mayor Garland S. Novosad returned to Open Meeting at 9:13 p.m.

The eighth item discussed on the agenda was Return to Open Meeting: Action on items discussed in Executive Session:

A. Review & Consider: Pending Litigation with Kent Hunt.

B. Review & Consider: Evaluation of the City Manager.

Councilmember Ken Freese personally thanked Andres Garza, Jr. for nine years of service, which every year had a different set of challenges. He stated that Andres Garza, Jr. always kept the City's interest. He stated that the City of Wharton was in financial disarray when Mr. Garza came in 1994, and he built the City's integrity. He then stated that his family was also a great asset to the community and looked toward many years as the City of Wharton City Manager. Councilmember Don Mueller stated that he echoed Councilmember Ken Freese's remarks. Councilmember Domingo Montalvo, Jr. commended Andres Garza, Jr.'s leadership and dedication keeping the city moving forward. Councilmember Bryce D. Kocian stated the same. No action was taken.

The ninth item discussed on the agenda was to review and consider the City Manager's submission of the City of Wharton, Texas Proposed Budget for the City of Wharton Fiscal Year October 1, 2002 to September 30, 2003. City Manager Andres Garza, Jr. presented the proposed

budget for the City of Wharton fiscal year October 1, 2002 to September 30, 2003 to the City Council. After some discussion, no action was taken.

The tenth item discussed on the agenda was to review and consider setting a Public Hearing Date for the City of Wharton, Texas Proposed Budget for the City of Wharton Fiscal Year October 1, 2002 to September 30, 2003. City Manager Andres Garza, Jr. informed that under Article VI, Section 53 of the City of Wharton Charter the City Council shall set a time and place for a public hearing. He then presented a copy of the City's Charter Section pertaining to the Budget. The City Staff would publish the Notice of Public Hearing on August 31, 2002 in the Wharton Journal Spectator. Mr. Garza recommended the public hearing be set for the September 9, 2002 City Council Meeting, which would comply with Section 53 of the City of Wharton Charter. After some discussion, Councilmember Don Mueller made a motion to set a Public Hearing Date of September 9, 2002 for the City of Wharton, Texas Proposed Budget for the City of Wharton Fiscal Year October 1, 2002 to September 30, 2003. Councilmember Bryce D. Kocian seconded the motion. All voted in favor.

The eleventh item discussed on the agenda was to review and consider the City of Wharton Code of Ordinances, Chapter 54 Parks & Recreation, Section 54-3 Use of Certain Softball Fields. City Manager Andres Garza, Jr. presented a copy of the City of Wharton Ordinance No. 2001-04 amending the Section 54-3 – Use of Certain Softball Fields to the City Council. He stated that during the regular City Council meeting held August 12, 2002, Mr. Joey Pennington addressed the City Council during Public Comments regarding the insurance requirements outlined in the ordinance. He then presented a copy of the memorandum dated August 22, 2002 from Community Services Director Jo Knezek regarding the two benefit games that were held at Pleasure Park. City Manager Garza stated that the City needed to distinguish between using City property for general use or to make a profit using City property. City Attorney Paul Webb stated that several cities did not require insurance requirement, however a signed waiver was on file. Councilmember Darryl Darnell stated that the City of Wharton was losing revenue due to the \$1,000,000 insurance requirement, and stated that he contacted Sugar Land and Missouri City which did not require the insurance, only a signed waiver. Councilmember Ken Freese stated that the City Council needed to be consistent with the softball fields, as like the City of Wharton Swimming Pool holding tournaments. After some discussion, no action was taken.

The twelfth item discussed on the agenda was to review and consider the City Council Streets & Drainage Committee recommendation regarding U. S. Highway 59 Corridor Improvements – Proposed F M 1301 Interchange and Improvement Projects. City Manager Andres Garza, Jr. informed the City Council that the Alliance for I-69 Texas was working toward the future planning and completion of Interstate 69 (I-69) through the State of Texas. The completion of I-69, as stated by the Alliance, would facilitate international and inter-regional trade, spur economic growth and provide a vital link to the communities along the corridor. The City of Wharton was one of the communities that would be located within the I-69 corridor and the development of frontage roads would ensure the future growth and economic development that would be vital to the City. He stated that the City of Wharton, in developing a transportation plan for its future needs, engaged the services of Jones & Carter Engineering, Inc. to conduct a feasibility study of the frontage roads located along U.S. Highway 59, which was currently the proposed site for the I-69 corridor. As part of this study, the City was also considering the feasibility of extending Farm to Market Road 1301 to U.S. Highway 59 and out to County Road 235 - Owens Road. He then stated that on August 22, 2002, the City Council Streets and

Drainage Committee met with members of the City Staff, representatives from Jones & Carter Consulting Engineers, Inc., and property owners regarding the U.S. Highway 59 Corridor Improvements – Proposed FM 1301 Interchange and Improvement Projects. A public hearing was held to provide an opportunity for the property owners to ask questions regarding the proposed project. Mr. Carlos Cotton of Jones & Carter, Inc. provided a presentation regarding the conception of the feasibility study and the future needs of Wharton. City Manager Andres Garza, Jr. then presented a copy of the Streets and Drainage Committee recommendation regarding the project, which was to recommend the City Council approve the project; and to contact Wharton County Commissioners Court, Wharton Chamber of Commerce and Agriculture Board of Directors, and Wharton Economic Development to further develop the proposed plan for submission to the Texas Department of Transportation. Councilmember Domingo Montalvo, Jr. publicly thanked Wharton Economic Development Executive Director David Schroeder for all the work completed on the project. After some discussion, no action was taken.

The thirteenth item on the agenda was to review and consider the recommendations from the City Council Finance Committee:

A. Resolution: A resolution administratively approving an application for tax abatement filed by Don Elliott Autoworld, dated the 8th day of August 2002. City Manager Andres Garza, Jr. informed the City Council that the City Council Finance Committee met on August 22, 2002 and discussed several topics. The Committee was recommending the City Council approve a resolution administratively approving the application for tax abatement from Don Elliott Autoworld and the ordinance granting the requested abatement. The \$250,000 project would receive a maximum 250% tax abatement over a ten (10) year period. The agreement authorizing a four (4) year agreement providing the following abatement:

Year 1 – 75%
Year 2 – 75%
Year 3 – 50%
Year 4 – 50%

Wharton Economic Development Corporation Executive Director David Schroeder informed the City Council that the project for Don Elliott Autoworld would be for \$292,000 instead of the submitted \$250,000. He stated that the abatement could be awarded up to 300%. Mr. Don Elliott addressed the City Council and stated that the addition would add 5200 square feet to the facility, and the Modular Building would be removed. He requested the City Council approve the 300% abatement.

After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Resolution No. 2002-43, which read as follows:

**CITY OF WHARTON
RESOLUTION NO. 2002 – 43**

**A RESOLUTION ADMINISTRATIVELY APPROVING AN APPLICATION
FOR TAX ABATEMENT FILED BY DON ELLIOTT AUTOWORLD
DATED THE 8TH DAY OF AUGUST 2002.**

WHEREAS, heretofore previously, the City Council of the City of Wharton did establish and adopt certain criteria and guidelines for review and administrative approval of applications for tax abatements; and

WHEREAS, the City Manager of the City of Wharton has reviewed the application heretofore previously filed and has approved the same by memorandum dated the 23rd day of August 2002 a copy of which is attached hereto and marked Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS that:

Section I. The City Council of the City of Wharton receives and makes a part of the record the recommendation of the City Manager, dated the 23rd day of August 2002, recommending administrative approval in accordance with the Guidelines and Criteria for Granting Tax Abatements as adopted by Resolution No. 2001-69 on the 10th day of December 2001 and directs that said recommendation be filed and maintained among the official papers of the City relating to the proposed tax abatement.

Section II. After review to the extent deemed necessary by the City Council of the City of Wharton, the City Council by this Resolution does administratively approve the application for tax abatement heretofore previously filed by Don Elliott Autoworld on the 8th day of August 2002, and directs, in accordance with the requirements of law, and the heretofore named Guidelines and Criteria for Granting Tax Abatements, that an appropriate agreement be prepared and submitted to the City Council of Wharton, Texas for final consideration.

Section III. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 26th day of August 2002.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

LISA STAVENA
Deputy City Secretary

Councilmember Darryl Darnell seconded the motion. All voted in favor.

B. Ordinance: An ordinance approving and authorizing the Mayor of the City of Wharton to sign and execute for and on behalf of the City of Wharton a Tax Abatement Agreement with Don Elliott Autoworld in a form as attached hereto and marked Exhibit "1" and making certain findings in accordance with the requirements of law. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve Ordinance No. 2002-15, which read as follows:

**CITY OF WHARTON, TEXAS
ORDINANCE NO. 2002 - 15**

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO SIGN AND EXECUTE FOR AND ON BEHALF OF THE CITY OF WHARTON A TAX ABATEMENT AGREEMENT WITH DON ELLIOTT AUTOWORLD IN A FORM AS ATTACHED HERETO AND MARKED EXHIBIT "1" AND MAKING CERTAIN FINDINGS OF FACT IN ACCORDANCE WITH THE REQUIREMENTS OF LAW.

WHEREAS, heretofore previously, the City Council of the City of Wharton by Ordinance No. 1999-37 did create a reinvestment zone upon a certain tract and parcel of property as described in said ordinance on file; and

WHEREAS, an agreement has been reached by and between the City of Wharton and the applicant to enter into a tax abatement agreement; and

WHEREAS, said agreement provides for tax abatement in accordance with certain conditions, restrictions and limitations as therein set out; and

WHEREAS, the City Council of the City of Wharton finds and determines that the tax abatement agreement, as attached hereto and marked Exhibit "1" is in accordance with the requirements of law and, therefore, should be approved.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS:

Section I. The Mayor, for and on behalf of the City of Wharton, is authorized to sign and execute a tax abatement agreement with Don Elliott Autoworld for the purpose of providing tax abatement with certain conditions, limitations and restrictions as set out in said agreement and under the requirements of law as specifically set out in Chapter 312 of the Texas Tax Code.

Passed, Approved and Adopted this 26th day of August 2002.

CITY OF WHARTON, TEXAS

By: _____

GARLAND S. NOVOSAD
Mayor

ATTEST:

BY: _____
LISA STAVENA
Deputy City Secretary

Councilmember Darryl Darnell seconded the motion. All voted in favor.

C. Resolution: A resolution authorizing the purchase of a Public Works Department - Street Sweeper through the Houston-Galveston Area Council Purchasing Program to be funded from the 1998 Bond Fund; authorizing the Mayor of the City of Wharton to execute all documents relating to said purchase. City Manager Andres Garza, Jr. informed the City Council that the Finance Committee recommended the purchase of a street sweeper through the Houston Galveston Area Council Cooperative Purchasing Program. The sweeper would be paid from the 1998 Bond Funds available. After some discussion, Councilmember Don Mueller made a motion to approve Resolution No. 2002-44, which read as follows:

CITY OF WHARTON
RESOLUTION NO. 2002 – 44

A RESOLUTION AUTHORIZING THE PURCHASE OF A PUBLIC WORKS DEPARTMENT – STREET SWEEPER THROUGH THE HOUSTON-GALVESTON PURCHASING PROGRAM TO BE FUNDED FROM THE 1998 BOND FUND; AUTHORIZING THE MAYOR OF THE CITY OF WHARTON TO EXECUTE ALL DOCUMENTS RELATING TO SAID PURCHASE.

WHEREAS, the Wharton City Council wishes to purchase a Public Works Department Street Sweeper through the Houston-Galveston Area Council Purchasing Program; and

WHEREAS, the Wharton City Council wishes to fund the purchase of the Street Sweeper from the 1998 Bond Funds; and

WHEREAS, the Wharton City Council wishes authorize the Mayor of the City of Wharton to execute all documents relating to said purchase.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHARTON, TEXAS that:

Section I. The Wharton City Council hereby authorizes the purchase of a Public Works Department Street Sweeper through the Houston-Galveston Area Council Purchasing Program.

Section II. The Wharton City Council authorizes the funding for the purchase of the street sweeper from the 1998 Bond Funds.

Section III. The Wharton City Council authorizes the Mayor of the City of Wharton to execute all documents relating to said purchase.

Section III. That this resolution shall become effective immediately upon its passage.

Passed, Approved, and Adopted this 26th day of August 2002.

CITY OF WHARTON, TEXAS

By: _____

GARLAND S. NOVOSAD
Mayor

ATTEST:

LISA STAVENA
Deputy City Secretary

Councilmember Domingo Montalvo, Jr. seconded the motion. All voted in favor.

D. Ordinance: An ordinance amending the City of Wharton Code of Ordinances, Chapter 86, Utilities and Services. City Manager informed the City Council that the Finance Committee met and was recommending amending the City of Wharton Code of Ordinances, Chapter 86, Utilities and Services. He then presented a draft copy of the proposed amendments to the City of Wharton Code of Ordinance Chapter 86 Utilities and Services. He then stated that the rates presented at the City Council Budget Workshop would be effective October 1, 2002, which allowed a 30 days notice. He also stated that instead of a \$20.00 reconnect fee, the City would charge the customer a \$20.00 administrative fee if the bill was not paid by the cut-off date. Mr. Garza also stated that the Ordinance had been reviewed by TNRC to comply with EPA requirements concerning pre-treatment and the proposal changes had been incorporated. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve Ordinance No. 2002-16, which read as follows:

**CITY OF WHARTON
ORDINANCE NO. 2002-16**

AN ORDINANCE AMENDING THE CITY OF WHARTON CODE OF ORDINANCES, CHAPTER 86, ARTICLES I & II, UTILITIES AND SERVICES; PROVIDING THAT A VIOLATION OF THE ORDINANCE OR ANY PART OF THE CODE AS ADOPTED HEREBY SHALL CONSTITUTE A PENALTY UPON CONVICTION OF A FINE; PROVIDING A SAVINGS CLAUSE AND REVOKING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH ONLY TO THE EXTENT SAME ARE IN CONFLICT HEREWITH OTHERWISE PROVIDED HEREIN.

BE IT ORDAINED by the City Council of the City of Wharton, Texas that:

(i) Section I. Amendment

The Code of Ordinances of the City of Wharton, Texas, Chapter 86 Utilities and Services is hereby amended to be enforced by the City of Wharton as follows:

Article I. In General

- Sec. 86-1. Definitions.
- Sec. 86-2. Purpose and policy.
- Sec. 86-3. General requirements for all users.
- Sec. 86-4. Heavy metals and toxic materials.
- Sec. 86-5. Garbage.
- Sec. 86-6. Stormwater and other unpolluted drainage.
- Sec. 86-7. Temperature.
- Sec. 86-8. Radioactive wastes.
- Sec. 86-9. Impairment of facilities.
- Sec. 86-10. Local limits nondomestic users.
- Sec. 86-11. Local limits for industrial users.
- Sec. 86-12. Hauled or trucked in wastewater.
- Sec. 86-13. Required and approved discharges.
- Sec. 86-14. Connections made by City service applications.
- Sec. 86-15. Water and sewer tap charges, deposits, other charges.
- Sec. 86-16. Water service charges.
- Sec. 86-17. Sewer service charges.
- Sec. 86-18. Billing, collection, etc.
- Sec. 86-19. Water and Sewer service for outside city limits.
- Sec. 86-20. Cleaning compounds.
- Sec. 86-21. Bulk Water Rates.
- Sec. 86-22. Bypass.
- Secs. 86-23 – 86-40 Reserved.

Article II. Industrial Waste Disposal and Pretreatment

- Sec. 86-41. Definitions
- Sec. 86-42. Purpose and policy.
- Sec. 86-43. General requirements for all users.
- Sec. 86-44. Local limits.
- Sec. 86-45. Pretreatment requirements.
- Sec. 86-46. Accidental Discharge/slug control plans.
- Sec. 86-47. Approving authority requirements.
- Sec. 86-48. Approving authority review and approval.
- Sec. 86-49. Industrial user wastewater discharge permit application program.
- Sec. 86-50. Industrial user record keeping requirements.
- Sec. 86-51. Industrial user reports of potential problems.
- Sec. 86-52. Industrial user building sewers.
- Sec. 86-53. Industrial user sampling and testing.
- Sec. 86-54. Right of entry: inspection and sampling.
- Sec. 86-55. Publication of users in significant noncompliance.
- Sec. 86-56. Notification of sample results.
- Sec. 86-57. Enforcement.
- Sec. 86-58. Notice of violation.
- Sec. 86-59. Consent Orders.
- Sec. 86-60. Compliance Orders.
- Sec. 86-61. Cease and desist Orders.
- Sec. 86-62. Emergency suspension of discharge.
- Sec. 86-63. Termination of discharges.
- Sec. 86-64. Injunctive relief.
- Sec. 86-65. Civil penalties.
- Sec. 86-66. Criminal prosecution.
- Sec. 86-67. Remedies nonexclusive.
- Sec. 86-68. Water supply severance.
- Sec. 86-69. Upset.
- Sec. 86-70. Fees for reimbursement of costs.

* Charter references – Authority to provide water, sewer and other services, I1: utilities department created, 22.

Cross references – Administration, ch. 2; buildings and construction, ch. 18; subdivisions, app. A.

State law reference – Public Utility Regulatory Act, Vernon's Ann. Civ. St. art 1446c.

ARTICLE I. IN GENERAL

Sec. 86-1. Definitions

The following words, terms and phrases, when used in this and subsequent articles, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Analytical Laboratory (or laboratory) means the independent EPA-approved laboratory specifically contracted by the City to perform required analyses of wastewater discharges subject to the requirements of this Ordinance. Only the laboratory specifically contracted by the City shall be recognized for the analysis of compliance point samples.

Approving Authority The Utility Director his duly authorized representative.

Authorized Representative of the User means

- (1) If the user is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of the principal business function, or any other person who performs similar policy or decision-making functions for the corporation;
or
 - (b) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;
- (3) The individuals described in paragraphs 1 and 2, above may designate another authorized representative if this authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates, or specifies the individual having overall responsibility for environmental matters for the company, and this written authorization is submitted to the city.

Biochemical Oxygen Demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration [milligrams oxygen utilized per liter of wastewater (mg/l)].

Building Sewer means the extension from the building drain to the public sewer or other place of disposal (also called line lateral and line connection).

Categorical Pretreatment Standard or Categorical Standard means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Clean Water Act, which applies to an Industrial User.

City means The City of Wharton, Texas, or the City Council of Wharton, Texas, and those persons authorized by the City Council to represent the City.

Chemical Oxygen Demand (COD) means the 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.

Composite Sample means the sample resulting from the combination of individual discrete wastewater samples taken at selected intervals based on an increment of either flow or time.

Contact Cooling Water means water used for cooling which may come into direct contact with any raw material, intermediate product, waste product, or finished product either by deliberate design or by accidental occurrence.

Control Authority means The Utility Director of the City of Wharton.

Control Manhole means a manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges into the public sewer.

Control Point means a point of access to course of discharge before the discharge mixes with other discharges in the public sewer. For industrial discharges, the control point is also considered the compliance point.

Compliance Point means a point of access to a course of discharge from an industrial user at which samples are collected and analyzed for flow and quality. These samples must be representative of the total discharge to the public sewer and must be collected prior to commingling with any other noncontrolled flows. Samples are taken at the compliance point of an industrial user for the purposes of determining the user's compliance with all applicable pretreatment standards and requirements. Samples collected at locations other than at the compliance point are considered for water quality information and background purposes only.

Director means The Utility Director of the City of Wharton, or his/her duly authorized representative.

Domestic Wastewater means waterborne waste normally discharged from the sanitary conveniences of dwellings, residences, hotels, apartments, office buildings and factories, free from storm water, ground water, surface water, and industrial waste. Normal domestic wastewater shall mean domestic wastewater that is "normal" sewage for the city.

Emulsifiers, Surfactants or Lubricants means those chemical compounds, either naturally-occurring or synthetically-derived, which are added to, or incorporated into, an aqueous stream

to chemically alter the properties of that strewn to improve solubility, viscosity, lubricity or heat transfer characteristics.

Excessive Strength Wastewater means any industrial wastewater in which any of the following concentrations are exceeded:

BOD = 150 milligrams per liter of wastewater

TSS = 200 milligrams per liter of wastewater

Total Oil and Grease =15 milligrams per liter of wastewater

Existing Source means any source of discharge, the construction or operation of which commenced prior to the effective date of this pretreatment Ordinance and prior to the publication date of any EPA proposed Categorical Pretreatment Standards, which would be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Clean Water Act.

Fats, Oils and Greases means the liquid, semisolid or solid substances originating from animal or vegetable sources normally encountered in sewer discharges from food production operations. These substances are discernible from petroleum-based oils and greases, which do not originate from animal or vegetable sources.

Food-Based Oils and Greases means the liquid, semi-solid or solid substances originating from animal or vegetable sources which are encountered in sewer discharges from food processing activities. These substances are discernible from other types of oils and greases, which are not generated from typical food-processing activities.

Food-Processing Activities means those activities specifically involved in the preparation of food items for human consumption. These activities may be conducted at residential, retail, commercial or institutional type facilities.

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

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

Indirect Discharge means the introduction of pollutants into the public sewer from any nondomestic or industrial source regulated under Section 307(b), (c), or (d) of the Clean Water Act.

Industrial Oils and Greases means those oils and greases present in wastes discharged from industrial facilities as a result of industrial activities conducted at those facilities. Industrial -oils and greases may be food-based, petroleum-based, synthetic or natural products that are employed in industrial operations or which are an integral part of those operations.

Industrial User means any person that discharges industrial wastes to the public sewer system and any other source of "indirect Discharge" as defined above. An industrial facility is one that engages in manufacturing, production or processing operations and which has been identified as such by the Standard Industrial Classification code applicable to that facility.

Industrial Waste means water-borne solids, liquids, or gaseous wastes resulting from an discharged, permitted to flow, or escaping from any industrial, manufacturing, or processing operation, or any mixture of these wastes with water or domestic wastewater. This definition does not apply to food preparation or other institutional wastes, which are considered "nondomestic" wastes.

Industrial Waste Charge means the charge made on those persons who discharge industrial wastes into the public sewer system.

Industrial Waste Permit means the authorization, by way of issuance of a permit, by the Director to an industrial facility to discharge particular waste streams to the public sewer system. The permit describes the wastes and concentrations, which may be discharged by a facility and describes the conditions under which those wastes may be discharged.

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

Interference means a discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, and therefore, is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Act; the Solid Waste Disposal Act, Resource Conservation and Recovery Act (RCRA); any State regulation contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

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.

Minor Industrial User means any nonsignificant industrial user which may discharge "excessive strength wastewater" (as the term is herein defined) to the public sewer system, but that is not a Significant Industrial User.

National Pollution Discharge Elimination System (NPDES) means the federal wastewater and storm water permitting program authorizing discharges to waters of the U.S. This permitting program sets out requirements for industrial discharges in addition to State and Local permit programs.

Natural Outlet means any outlet into a watercourse, ditch, lake or other body of surface water or groundwater.

New Source means

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the effective date of this pretreatment Ordinance or after the publication date of any EPA proposed pretreatment standards under Section 3070 of the Clean Water Act which would be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (a) The building, structure, facility, or installation is constructed at a site at which no existing source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) The production or wastewater generated or processed at the building, structure, facility, or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, will be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1) (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - (a) Begun, or caused to begin as part of a continuous onsite construction program
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing building structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

- (b) Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Nondomestic User means any person that discharges nondomestic wastes to the public sewer system that is not considered an industrial waste. Nondomestic sources include those wastes from food preparation and processing, commercial and retail facilities and institutional wastes from hotels, hospitals, schools, criminal justice facilities, nursing homes and other miscellaneous nonindustrial activities.

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

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

Pass Through means a discharge which exits the POTW into water of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation).

Person means any individual, group of individuals, authorized corporate representatives or corporation which is directly involved in and responsible for the discharge of any wastes to the public sewer system.

Petroleum - Based Oil and Grease means those liquid semi-solid or solid wastes originating from petroleum products, including crude and refined oils, distillates, degreasing solvents, lubricating oils and cooling or thermal oils.

pH means the reciprocal of the logarithm (base ten) of the hydrogen ion concentration expressed in grams per liter.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural, food-based, synthetic, and petroleum oil or petroleum oil-containing wastes and industrial wastes, and certain characteristics of wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor].

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutant into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means. Dilution of an industrial waste stream with other nonpolluted waters or domestic wastes is, not permitted as a form of pretreatment.

Pretreatment Requirements means any substantive or procedural requirement related to Pretreatment imposed on a user, other than a Pretreatment Standard.

Pretreatment Standards (or Standards) shall mean Prohibited discharge standards, Categorical Pretreatment Standards, and other Federal, State or local limits set out in, this pretreatment Ordinance.

Prohibited Discharge Standards (or Prohibited Discharges) means absolute prohibitions against the discharge of certain substances.

Publicly Owned Treatment Works (POTW) means A "treatment works", or combination of all wastewater collection and treatment facilities owned and operated by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to treatment plant. This definition, however, does not include pipes, sewers, other conveyances, or sampling points located exclusively on private property, and that are physically located anterior to the indirect discharge point.

Sanitary sewer means a public sewer that conveys domestic wastewater or industrial wastes or a combination of both and into which stormwater, surface water, groundwater and other unpolluted wastes are not intentionally passed.

Sewage means the normal mixture of human wastes generated by domestic, residential, institutional, commercial and restaurant facilities. Sewage may include some cleaning compounds such as soaps, detergents or other cleaning products.

Septic Tank Wastes means those liquid and solid wastes collected from underground septic systems. Septic systems are those which use biological processes to treat domestic sewage and do not include industrial waste systems.

Significant Industrial User means:

- (1) A user subject to any Categorical Pretreatment Standards; or
- (2) A user that:
 - (a) Discharges an average of 25,000 gallons per day (gpd) or more of nondomestic wastewater to the POTW; or
 - (b) 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
 - (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

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

Slug Load (or Slug) means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards of this Ordinance.

Standard Methods means the examination and analytical procedures set forth in the latest 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 (WEF).

Storm Sewer means a public sewer, which carries stormwaters and surface waters and drainage, and into which domestic wastewater or industrial wastes are not intentionally passed.

Stormwater means rainfall or any other forms of precipitation and the natural over land drainage of precipitation.

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

To Discharge means to deposit, conduct, drain, emit, throw, run, allow to seep or otherwise release or dispose of or to allow, permit or suffer any of these acts or omissions.

Trap or Grease Trap means a device designed to skim, settle or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

Unpolluted Wastewater means water, which does not contain any:

- (1) Free or emulsified grease or oil;
- (2) Acids or alkalis;
- (3) Phenols or other substances producing taste or odor in the receiving water;
- (4) Toxic or poisonous substances in suspension, colloidal state or solution;
- (5) Noxious or otherwise obnoxious or odorous gases;
- (6) More than ten mg/l each of suspended solids and BOD; and
- (7) Color exceeding 50 units as measured by the platinum-cobalt method of determination as specified in Standard Methods.

User (Industrial User or Nondomestic User) means any person who discharges industrial or nondomestic wastewater to the wastewater system, and any other source of of indirect discharge as defined herein.

Waste means rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural or industrial activities.

Wastewater means liquids and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are discharged into the POTW.

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

Wastewater Service Charge means the charge on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal wastewater.

Wastewater Treatment Plant or Treatment Plant means that portion of the POTW, which is designed to provide treatment of sanitary wastewater and industrial waste.

Watercourse means a natural or manmade channel in which a flow of water occurs, either continuously or intermittently.

See 86-2. Purpose and policy

This article sets-forth uniform requirements to be met by all industrial and nondomestic users utilizing the wastewater collection, transportation and treatment system for the City of Wharton, Texas. The Ordinance is written to enable the City of Wharton Wastewater Treatment System to comply with and enforce all applicable State and Federal laws pertaining to industrial wastewater quality control.

Sec. 86-3. General requirements for all users

- (a) General Prohibitions: No user shall introduce or cause to be introduced into a public sanitary sewer or any other component of the POTW any pollutant or wastewater, which causes pass through or interference. These general prohibitions apply to all industrial and nondomestic users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other National, State, or local pretreatment standards or requirements.
- (b) No industrial or nondomestic user may discharge to public sewers any waste, which by itself or by interaction with other wastes may:
 - (1) Injure or interfere with wastewater treatment processes or facilities;
 - (2) Constitute a hazard to humans or animals; or
 - (3) Create a hazard in receiving waters or the wastewater treatment plant effluent.

- (c) All discharges shall conform to this Article.
- (d) No industrial or nondomestic discharge to public sewers may contain the following:
 - (1) Gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases;
 - (2) Strong acid, iron pickling wastes or concentrated plating solutions whether neutralized or not;
 - (3) Substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (zero and 65 degrees Celsius);
 - (4) Objectionable or toxic substances, exerting an excessive chlorine requirement, to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the approving authority for such materials;
 - (5) Obnoxious, toxic, or poisonous solids, liquids or gases in quantities sufficient to violate this section;
 - (6) Wastewater causing, alone or in conjunction with other sources, the treatment plants effluent to fail a toxicity test; or
- (e) No waste, wastewater or other substances may be discharged into public sewers which have a pH lower than 6 or higher than 9 or any other corrosive property capable of causing damage or hazard to structures, equipment and personnel at the wastewater facilities.
- (f) All waste, wastewater or other substance containing phenols, hydrogen sulfide or other taste- and odor-producing substances shall conform to concentration limits established by the approving authority. After treatment of the composite wastewater, concentration limits may not exceed the requirements established by State, Federal or other agencies with jurisdiction over discharges to receiving waters.
- (g) Any wastewater of such character or quantity that unusual attention or expense is required to handle such material at the wastewater treatment plant or in the collection system.
- (h) No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment, to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.

Sec. 86-4. Heavy metals and toxic material limits

- (a) No discharges to the public sewers may contain concentrations of heavy metals greater than the amounts specified in (b) below.
- (b) Maximum allowable concentrations of discharges shall be as follows:
 - (1) Quality levels of inland waters. The allowable concentrations of each of the hazardous metals, stated in terms of milligrams per liter (mg/l), for discharge to inland waters are as follows:

(a) Not to Exceed

Metal	Average	Daily Composite	Grab Sample
Arsenic	0.1	0.2	0.3
Barium	1.0	2.0	4.0
Cadmium	0.05	0.1	0.2
Chromium	0.5	1.0	5.0
Copper	0.5	1.0	2.0

(b) Not to Exceed

Metal	Average	Daily Composite	Grab Sample
Lead	0.5	1.0	1.5
Manganese	1.0	2.0	3.0
Mercury	0.005	0.005	0.01
Nickel	1.0	2.0	3.0
Selenium	0.05	0.1	0.2
Silver	0.05	0.1	0.2
Zinc	1.0	2.0	6.0

- (c) No other heavy metals or toxic materials may be discharged into public sewers without a permit from the approving authority specifying conditions of pretreatment, concentrations, volumes and other applicable provisions.
- (d) Prohibited heavy metals and toxic materials include, but are not limited to the following:
 - (1) Antimony;
 - (2) Beryllium;
 - (3) Bismuth;
 - (4) Cobalt;

- (5) Molybdenum;
- (6) Tin;
- (7) Uranylion;
- (8) Rhenium;
- (9) Strontium;
- (10) Tellurium;
- (11) Herbicides;
- (12) Fungicides; and
- (13) Pesticides.

Sec. 86-5. Garbage

- (a) No person may discharge garbage into public sewers unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than one-half inch in any dimension are prohibited.
- (b) The approving authority is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater.

(i) Sec. 86-6. Stormwater and other unpolluted drainage

- (a) No person may discharge the following to public sanitary sewers:
 - (1) Unpolluted stormwater, surface water, groundwater, roof runoff or subsurface drainage;
 - (2) Unpolluted cooling water;
 - (3) Unpolluted industrial process waters; or
 - (4) Other unpolluted drainage.
- (b) In compliance with the Texas Water Quality Act (V.T.C.A., Water Code ' 26.001 et seq.) and other statutes, the approving authority may designate storm sewers and other watercourses into which unpolluted drainage described in subsection (a) of this section may be discharged.

- (c) Polluted stormwaters and cooling waters may be discharged to the public sewer provided that authorization has been granted by the City for such discharges under the requirements' of this Ordinance.

(ii) Sec. 86-7. Temperature

No person may discharge to the public sewers any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius) or any substance which causes the temperature of the total wastewater treatment plant influent to increase at a rate of ten degrees Fahrenheit or more per hour or a combined total increase of plant influent temperature to 110 degrees Fahrenheit.

(iii) Sec. 86-8. Radioactive wastes

- (a) No person may discharge radioactive wastes or isotopes into public sewers without the permission of the approving authority.
- (b) The approving authority may establish, in compliance with applicable state and federal regulations, regulations for discharge of radioactive wastes into public sewers.

(iv) Sec. 86-9. Impairment of facilities

- (a) No person may discharge into public sewers any substance capable of causing:
 - (1) Obstruction to the flow in sewers;
 - (2) Interference with the operation of treatment processes of facilities; or
 - (3) Excessive loading of treatment facilities.
 - (4) Discharges prohibited by subsection (a) of this section include but are not limited to materials which exert or cause concentrations of-
 - (1) Inert suspended solids greater than 200 mg/I, including but not limited to:
 - a. Fuller's earth;
 - b. Lime slurries; and
 - c. Lime residues;
 - (2) Dissolved solids greater than 145 mg/I, including but not limited to:

- a. Sodium chloride; and
 - b. Sodium sulfate;
 - (3) Excessive discoloration, including but not limited to:
 - a. Dye wastes; and
 - b. Vegetable tanning solutions; or
 - (4) BOD, COD or chlorine demand in excess of normal plant capacity.
- (b) No person may discharge into public sewers any substances that may:
- (1) Deposit grease or oil in the sewer lines in such a manner as to clog the sewers;
 - (2) Pass to the receiving waters without being effectively treated by normal wastewater treatment processes due to the nonamenability of the substance to bacterial action; or wastewater treatment processes due to the nonamenability of the substance to bacterial action; or
 - (3) Deleteriously affect the treatment process due to excessive quantities.
- (c) No person may discharge any substance into public sewers which:
- (1) Is not amenable to treatment or reduction by the processes and facilities employed; or
 - (2) Is amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (d) The approving authority shall regulate the flow and concentration of slugs when they may:
- (1) Impair the treatment process;
 - (2) Cause damage to collection facilities;
 - (3) Incur treatment costs exceeding those for normal wastewater; or
 - (4) Render the waste unfit for stream disposal.
- (e) No person may discharge into public sewers solid or viscous substances which may violate subsection (a) of this section if present in sufficient quantity or size, including but not limited to:
- (1) Ashes;

- (2) Cinders;
- (3) Sand;
- (4) Mud;
- (5) Straw;
- (6) Shavings;
- (7) Metal;
- (8) Glass;
- (9) Rags;
- (10) Feathers;
- (11) Tar;
- (12) Plastics;
- (13) Wood;
- (14) Unground garbage;
- (15) Whole blood;
- (16) Paunch manure;
- (17) Hair and fleshings;
- (18) Entrails;
- (19) Paper products, either whole or ground by garbage grinders;
- (20) Slop;
- (21) Chemical residues;
- (22) Paint residues; or
- (23) Bulk solids.

Sec. 86-10. Local limits for nondomestic users

- (a) Maximum allowable concentrations of discharges for all nondomestic users shall be as follows:

(ii) PARAMETER	CONCENTRATION NOT TO EXCEED AT ANY ITME – mg/l
BOD	150
COD	250
TSS	200
Food-Based Oils or Grease	100
Cyanide	1
Chlorides	250
Fluorides	None other than present in the public water supply

- (b) Other specific requirements for nondomestic users shall be as follows:
- (1) Nondomestic users shall provide pretreatment for fats, oils and greases by the use of grease traps. Nondomestic users will be required to maintain these traps in proper working order to maximize oil and grease removal. All traps shall be of adequate capacity, shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature, and shall so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by users at their expense. These traps will be inspected on a semi-annual basis at the discretion of the City.
 - (2) Nondomestic user's wastewater will be sampled on a periodic basis at the Director's discretion. The frequency of sampling and type of testing to be conducted will be based on a particular facility's potential to exceed certain discharge standard or requirements.

Sec. 86-11. Local limits for industrial users

Certain local limits apply to industrial users, as specified in Article 11. Industrial Waste Disposal and Pretreatment, Section 86-44.

Sec. 86-12. Hauled or trucked in wastewater

- (a) Trucked in wastes to any City treatment facilities are subject to the same pretreatment standards and requirements of this Ordinance. Prior approval must be obtained from the City before any trucked in wastes can be accepted for treatment at any treatment facilities. Industrial users transporting wastes over land for disposal at a POTW must obtain a waste haulers permit from the State regulatory authorities. The City may request information considering the nature of trucked in wastes. This information may include, but is not limited to, Material Safety Data Sheets (MSDS), process information, quantity to be treated and sample results.

- (b) Septic tank waste may be introduced into the POTW only at locations designated by the Director, and at such times as are established by the Director. Such waste shall not violate any standard or requirement of this Ordinance. Wastewater discharge permits for individual vehicle to discharge septic waste may be issued by the Director.
- (c) The Director shall issue wastewater discharge permits to any haulers of industrial waste who discharge any industrial waste or wastewater into a public sewer or any other component of the POTW. The Director may issue wastewater discharge permits to any generators of hauled industrial waste so discharged. The Director may also prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other standards and requirements of this Ordinance unless otherwise authorized by the Director.
- (d) Industrial waste haulers may discharge loads only at locations designated by the Director. No load may be discharged without prior consent of the Director. The Director may collect samples of each hauled load to ensure compliance with applicable standards. The Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (e) Industrial waste haulers who discharge any waste or wastewater into a public sewer or any other component of the POTW must provide a waste tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

Sec. 86-13. Required and approved discharges

- (a) Unless exception is granted by the approving authority, the public sewer system shall be used by all persons discharging:
 - (1) Wastewater;
 - (2) Industrial waste;
 - (3) Polluted liquids; or
 - (4) Certain unpolluted waters or liquids.
- (b) Unless authorized by the state water development board, no person may deposit or discharge any waste included in subsection (a) of this section on public or private property in or adjacent to any:
 - (1) Natural outlet;
 - (2) Watercourse;

- (3) Storm sewer; or
- (4) Other area within the jurisdiction of the City.
- (c) The approving authority shall verify prior to discharge that wastes authorized to be discharged will receive suitable treatment within the provisions of laws, regulations, Ordinances, rules and Orders of Federal, State and local governments.

Sec. 86-14. Connections made by City; Service Applications.

- (a) All connections or taps to the City’s water and sewer systems shall be made by employees of the City under the direction and supervision of the water superintendent.
- (b) New customers are required to complete an application for utility services including a confidentiality notice at the time that the service is requested.
- (c) All utility service customers are required to certify that any city ordinances regarding utility services will be complied with as amended from time to time by the City Council. This certification is included in the service application referred to in subsection (b) of this section.

Sec. 86-15. Water and Sewer Tap Charges, Connection Fees, Deposits, and Other Charges

Water and sewer tap charges; connection fees; deposits and other charges shall be as follows:

- (1) *Water.* Water tap fees for customers inside the City limits and outside the City limits are as follows:

	<i>Size of Tap</i>	<i>Inside City Limits</i>	<i>Outside City Limits</i>
a.	¾- inch T-off	\$ 150.00	\$ 250.00
b.	¾-inch	\$ 300.00	\$ 400.00
c.	1-inch	\$ 400.00 + cost of meter	\$ 500.00 + cost of meter
d.	1½-inch	\$ 600.00 + cost of meter	\$ 700.00 + cost of meter
e.	2-inch	\$ 800.00 + cost of meter	\$ 900.00 + cost of meter

Customers must also pay for the cost of the meter for taps one inch and larger. Tap fees for taps larger than two inches shall be determined upon cost to install plus cost of water meter.

- (2) *Sewer.* Sewer tap fees for customers inside the City limits and outside the City limits are as follows:

	<i>Size of Tap</i>	<i>Inside City Limits</i>	<i>Outside City Limits</i>
a.	4-inch	\$ 300.00	\$ 400.00

b. 6-inch \$ 500.00 \$ 600.00

(3) *Deposits.* As a condition of receiving water, sewer and garbage service, the following deposits shall be charged:

- (a) Deposit Amount
 - All customers \$75.00
 - Senior citizens \$40.00 (60 Years or Over)
- (b) Deposits will not be required for public schools, counties, and other governmental entities.
- (c) Customers may transfer their deposits from one account to another account if they move from one address to another. The account must be current before the deposit can be transferred and the new service enacted.
- (d) Renters transferring from one address to another must have paid the maximum deposit or must pay the difference between the deposit paid and the maximum deposit before the deposit can be transferred and the new service enacted.
- (e) Customers' deposits will be refunded by crediting the deposit amount to the customer's account when the account is finalized. Any remaining deposit will be mailed to the forwarding address provided by the customer.
- (f) Letters of Credit are not acceptable in lieu of cash for payment of deposits as required in this section.
- (g) In the event a current utility service customer requests service at an additional address, the deposit may be waived if the customer has had no more than two delinquent payments on the existing account for the previous twelve (12) months prior to the date of the request. In the event that either the initial account or any additional accounts are not maintained in a non-delinquent status, an additional deposit may be required for each account.

(4) *Administrative Penalty:* If payment is not received on a delinquent account and is placed on the cut-off list and water is due to be or is disconnected, an administrative penalty will be assessed as follows:

 Administrative Penalty \$20.00

(5) Other charges include the following:

- (a) *Late charges:* If payment is not received by the 15th of each month, a penalty will be assessed on the 16th of each month at the rate noted below:

 Late Charges 5% of balance due

(b) Charges of Damages

Charges shall also be made for damages to equipment, such as meters, cutoff valves and locks. These charges shall be based on the actual cost of replacement, including labor, where applicable.

(c) Industrial Users

Industrial users may be subject to additional charges and fees, relating to permitting and noncompliance issues, as outlined in Article II. Industrial Waste Disposal and Pretreatment, § 86-41 through 86-78.

(d) Restaurants, Food Preparation Facilities and Other Commercial Users

Restaurants, food preparation facilities, institutional facilities and other commercial type facilities utilizing grease traps will be subject to a \$100 fee for each exceedance of the local oil and grease limit of 100 mg/l. This fee is not a surcharge. The payment of this fee does not authorize the discharge of wastes containing oil and grease in concentrations greater than 100 mg/l. This limit applies only to food grade oils of animal or vegetable origin. The concentration of petroleum-based oil and grease is limited to 15 mg/l. The oil and grease exceedance fee will be assessed for each sample result, which indicates an excess oil and grease concentration in sewer discharges from the facility. The City will be responsible for collecting and analyzing all oil and grease samples from grease traps. Oil and grease trap sampling will be conducted on a periodic basis at the city's discretion.

(e) Septic tank waste hauled or trucked into Wastewater Treatment Plant as outlined in Article II, Section 86-54 will be billed at the following rate:

Fees for Hauling Waste	\$50.00 per 1,000 gallons
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Sec. 86-16. Water Service Charges.

(a) The monthly charges for water service rendered by the City shall be as follows:

Volume	Charges
First 2,000 gallons (minimum)	\$ 7.91
Next 2,000 gallons	\$ 1.59 per 1,000
Next 3,000 gallons	\$ 1.64 per 1,000
Next 4,000 gallons	\$ 1.71 per 1,000

Next 4,000 gallons	\$ 1.79 per 1,000
Next 35,000 gallons	\$ 1.90 per 1,000
Next 50,000 gallons	\$ 2.01 per 1,000
Next 50,000 gallons	\$ 2.19 per 1,000
Next 50,000 gallons	\$ 2.36 per 1,000

- (b) Customers requesting temporary water services (7 day increments) can apply for a temporary water rate based on the following:

Volume Charges	
First 8,000 gallons	\$ 25.00 for 7 days
Over 8,000 gallons	\$ 1.90 per 1,000

The temporary water rate is intended as a temporary service for water only and will not be extended for more than 14 consecutive days without a deposit or connection fee being made in accordance with Section 86-2 subsections (4) and (5).

Sec. 86-17. Sewer Service Charges.

- (a) The monthly charges for sanitary sewer services rendered by the City shall be as follows:

(b) *Volume Charges*

First 2,000 gallons (minimum)	\$8.50
Next 2,000 gallons	\$1.32 per 1,000
Next 3,000 gallons	\$1.65 per 1,000
Next 4,000 gallons	\$1.80 per 1,000
Next 4,000 gallons	\$1.95 per 1,000
Next 35,000 gallons	\$2.10 per 1,000
Next 50,000 gallons	\$2.25 per 1,000
Next 50,000 gallons	\$2.40 per 1,000
Next 50,000 gallons	\$2.55 per 1,000

- (b) Residential customers. Monthly service charges for sewer service is based on the average water consumption for three winter months' (December, January, February). The winter averaging is calculated in February and is reflected in the March bill. New residential customers with no historical usage shall be billed for sewer usage based on the average residential customers' usage based on the most current winter averaging.
- (c) Regular commercial customers. Monthly service charge for sewer service shall be based on the monthly-metered water usage at the rates set forth above.
- (d) Industrial cost recovery charge. Applicable to industrial customers pursuant to the Environmental Protection Agency's assistance grant cost recovery requirements, the

industries shall be subject to an annual charge required to recover their proportionate share of any federal grant monies utilized to construct new, or make upgrades to existing, sewer facilities. This cost recovery program shall cover the life of the project (20 years). Based on average daily flow, BOD and TSS loading, the annual charge to each applicable industry shall be the sum of the following unit charges:

Annual charge = Flow charge + BOD charge + TSS charge.

Flow charge = \$316.35/20 per 1,000 gpd (avg. daily flow).

BOD charge = \$121.09/20 per lb. Of BOD per day (avg. Daily BOD load).

TSS charge = \$33.64/20 per lb. of TSS per day (avg. daily TSS load).

The first industrial cost recovery charge shall be due 12 months after placing the new treatment facilities into operation and annually thereafter for a period of 20 years. Charges and industrial load data shall be reviewed not less than annually and adjustments made as required. When applicable, any new industry shall be added when served by the treatment facilities.

Sec. 86-18. Billing, Collection, etc.

- (a) Meters shall be read approximately every thirty days. Utility bills will be processed and mailed by the 1st day of each month.
- (b) All monthly bills for services rendered by the water and sewer systems are due upon issuance by the City of Wharton and are payable by the due date noted on the bill.
- (c) A delinquent charge (penalty) will be assessed to each account if not paid by the due date. Delinquent notices will be mailed on the next working day of the month following the due date as stated on the bill. In addition to delinquent notices, the City may use other forms of notification on delinquent accounts.
- (d) The City may discontinue service if payment is not received in full by 5:00p.m. on the 5th business day after the issuance of delinquent notices. The City is not responsible for delays in the mail.
- (e) In the event of discontinuation of service, all amounts due the City including any penalties and charges are required to be paid in full before reconnection to the system. If the account is not paid in full by the 10th of the following month the account will be finalized and the deposit will be applied to the balance.
- (f) Customers may appeal incorrect or improper billings with the supervisor of the utility administration department within fifteen (15) days of issuance of the monthly bills. The customer service division shall investigate the validity of customer complaints and provide a report on their findings within three (3) days of such filing. No late charges shall be applied to any account with an appeal pending. The failure of any customer to receive a bill or the subsequent reminder notice shall not be

grounds for appeal. If, in the sole opinion of the supervisor of the department, the investigation supports the appeal, the account may be adjusted, as appropriate.

- (g) All checks issued for payment of water and/or sewer service returned unpaid shall incur a processing fee equal to the maximum amount allowed by law.
- (h) Deposits: If any person attempts to pay a required deposit by check or similar instrument and such instrument is dishonored, the service for which such deposit was made shall be subject to disconnection without notice and an administrative penalty will be charged.
- (i) Account payment. If any person attempts to pay an account bill by check or similar instrument and such instrument is dishonored, then the person obligated on the corresponding account shall be notified by letter sent by the United States first class mail that if he does not pay the bill, plus a processing fee as prescribed in section 86-5(g), in full, by cash or money order, within five (5) business days, the service for which such bill was prepared shall be discontinued and corresponding account will be charged an administrative penalty in accordance with the schedule set out in section 86-15(4). A certificate of mailing by the United States Postal Service shall be prima facie evidence of delivery of such notice. The payment on account by dishonored check or similar instrument shall constitute nonpayment and shall be subject to penalties therefor.
- (j) Payment by cash, cashier's check or money order. The City may refuse to accept payment by check or similar instrument from any person who has had three (3) or more payments to the City made by check or similar instrument dishonored. The City shall notify the person in writing that only cash, cashier's check, or money order will be accepted from that person.
- (k) A customer who deems his account to have had an extraordinary increase in consumption may appeal to the utility billing department for a credit adjustment. This appeal shall be made in writing and will denote all the relevant facts relating to the situation as known by the customer. Upon examining the facts, the City Manager or his designee shall render a decision in writing to the customer explaining the City's decision and the credit adjustment to be given, if any. Consideration may be given for unavoidable leaks and unexplainable consumption which amounts to one hundred fifty (150) percent or more of the normal consumption for that account with normal consumption defined as the consumption of the same account for the same month in the prior year or the average consumption for the account for the past twelve (12) months, whichever is greater. The credit adjustment will be limited to 1/2 of the amount determined to be over the normal consumption.
- (l) Utility customers may have their service temporarily disconnected for a period of not less than thirty (30) days for "vacation" by notification to the Utility Department. The account is said to be on vacation which means the service disconnected by City Employees and no charges are billed to the customer during that time. The City retains the deposit in order for the account to remain on a

vacation status. However, all meters are checked on a monthly basis. Therefore, if there is any usage on the meter during the time the account is on vacation, the account will become active and all charges for water, sewer and garbage shall be billed to the customer.

Sec 86-19. Water and Sewer Service for Outside City Limits

- (a) The City council may approve water and sewer service for customers outside the City limits.
- (b) Charges for water and/or sewer service usage for customers outside the City limits shall be twice the rate charged for the same service to customers within the City.

Sec 86-20. Cleaning compounds.

- (a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Cleaning compound means a cleaning compound in liquid, bar, spray, tablet, flake, powder or other form used for cleaning purposes. The term "cleaning compound" shall not mean:

- (1) A metal cleaner, degreasing compound, commercial cleaner, industrial cleaner, or other substance that is intended to be used for industrial cleaning purposes.
- (2) A phosphorus acid product, including a sanitizer, brightener, acid cleaner or metal conditioner.
- (3) A detergent manufactured, stored or distributed for use or sale outside the City limits.

Phosphorus means elemental phosphorus.

- (b) Restrictions.
 - (1) It shall be unlawful for any person to sell, offer or expose for sale, give or furnish any cleaning compound containing more than 0.5 percent phosphorus by weight except that dish washing formulations may contain up to 8.70 percent phosphorus by weight within the City from and after October 1, 1992.
 - (2) The concentration of phosphorus by weight, expressed, as elemental phosphorus in any synthetic detergent or detergent shall be determined by the current applicable method prescribed by the American Society for Testing and Materials (A.S.T.M.).

- (c) Voluntary limits. The City will try to operate its wastewater treatment system so that the amount of phosphorus discharged from the system is less than 2.5 milligrams per liter (2.5 mg/l) on a daily average. Samples will be taken and tested at the same time other samples are taken for regulatory purposes.

Sec 86-21. Bulk Water Rates

- (a) Bulk Sales through fire hydrant water meters temporarily installed at locations remote from the Wharton Volunteer Fire Department on Fulton Street will require the following:
 - 1. Advance, non-refundable payment of \$50.00 to the City of Wharton at City Hall for setting the meter connection at the fire hydrant or other appropriate locations as the City may determine; and
 - 2. Payment of Bulk Sales Rate of \$50.00 per month for the first 1,000 gallons of water dispensed, or any fraction thereof. \$20.00 per month per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and
 - 3. Advance, refundable fire hydrant meter deposit payment of \$200.00 to the City of Wharton at City Hall.
- (b) Bulk Sales through permanently installed water meter dispensation point at the Wharton Volunteer Fire Department on Fulton Street will require the following:
 - 1. No requirement for payment of meter setting fee; and
 - 2. Payment of Bulk Sales Rate of \$50.00 for the first 1,000 gallons of water dispensed, or any fraction thereof. \$20.00 per 1,000 gallons dispensed, or any fraction thereof, beyond the initial 1,000 gallons dispensed; and
 - 3. No requirement for payment of the \$200.00 fire hydrant meter deposit, however each water dispensation transaction authorized under subparagraph 9B must be prepaid to the City of Wharton at City Hall where a one-day dispensation voucher will be issued for presentation to the Water Plant Operator to authorize a one-day dispensation of a not to exceed amount of water in gallons. The one-day dispensation voucher identifying the cumulative number of gallons purchased will allow for scheduled multiple withdrawals of water, but only during the same City of Wharton working day upon which initial dispensation commences.

Bulk Sales Water Service customers must provide a suitable mobile water containment vessel of sound quality for receiving and hauling water for use or consumption at any location within the Wharton Water System.

Public or private volunteer fire fighting organizations that procure water only for fire prevention and control purposes and do not resell such water for other purposes, are

exempt from this Classification, Rates and Fees Schedule. Contractors constructing City of Wharton Public Works projects requiring potable water for dust control and construction operations shall also be exempt from this Classification, Rates and Fees Schedule.

Any \$200.00 refundable fire hydrant meter deposit paid to the City of Wharton may be applied by the City of Wharton to the payment of any Bulk Sales Customer unpaid bills, and when so partially consumed through past-due account application, shall be restored by the Bulk Sales Customer to the original \$200.00 amount.

Bulk Sales Water Service dispensation to consumers having only an occasional need for such water service are encouraged to utilize the permanently installed water meter dispensation point at the Wharton Volunteer Fire Department located on Fulton Street.

Use of the Fulton Street permanently installed water meter dispensation point requires advanced payment by check or cash to the City of Wharton at City Hall and at least (4) four hours advanced scheduling of prospective water withdrawals which shall also only occur during the following City working hours Monday – Friday 9:00 A.M. – 12:00 P.M. and 1:00 P.M. – 4:00 P.M. (Saturday, Sunday and city Holidays excluded).

Sec. 86-22. Bypass.

- (a) For the purposes of this section:
 - (1) *Bypass* means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - (2) *Severe property damage* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (b) A user may allow a bypass to occur which does not cause pretreatment standards or requirements only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.
- (c)
 - (1) If a user knows in advance of the need for a bypass it shall submit it prior notice to the Control Authority, at least ten (10) working days before the date of the bypass, if possible.
 - (2) A user shall submit oral notice to the Control Authority of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) working days of the time

the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case by case basis if the oral report has been received within twenty-four (24) hours.

- (d) (1) Bypass is prohibited, and the Control Authority may take an enforcement action against a user for a bypass unless:
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, pump and truck, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed during normal periods of equipment downtime or as preventive maintenance in the exercise of reasonable engineering judgment or prevent a bypass;
 - (c) The user submitted notices as required under paragraph (c) of this section.
- (2) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in paragraph (d) of this section.

Secs. 86-23 – 98-40 Reserved.

(i) ARTICLE II. INDUSTRIAL WASTE DISPOSAL AND
PRETREATMENT

Sec 86-41. Definitions

The words, terms and phrases, defined in Article 1. General Requirements, when used in this article, shall have the same meanings ascribed to them, except where the context clearly indicates a different meaning.

Sec 86-42. Purpose and policy

This industrial waste pretreatment Ordinance sets forth uniform requirements to be met by all industrial and nondomestic users utilizing the wastewater collection, transportation and treatment system for the City of Wharton, Texas. The Ordinance is written to enable the City of Wharton Wastewater Treatment System to comply with and enforce all applicable State and Federal laws pertaining to industrial wastewater quality control.

The objectives of this Ordinance are to: 1) prevent the introduction of pollutants into the wastewater system that will interfere with its operation or pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the wastewater system; 2) enable the City to comply with its NPDES permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the wastewater facilities are subject; and 3) enable the City to preserve and improve the opportunity to reuse or reclaim any treated waste streams.

This Ordinance shall be given full force and effect inside the corporate limits of Wharton and within those unincorporated areas located outside the corporate limits of Wharton, but with whom the city has contracted sewer services.

The Ordinance authorizes the issuance of wastewater discharge permits, authorizes monitoring, compliance, and enforcement activities, establishes administrative review procedures, requires user reporting and provides for penalties for violations of the regulations established herein.

Sec. 86-43. General requirements

Industrial users are subject to the same general requirements outlined in Article 1. General Requirements, Sections 86-1 through 86-20.

Sec. 86-44. Local limits.

- (a) Maximum allowable concentrations of discharges for all industrial users shall be as follows:

(ii) PARAMETER	CONCENTRATION NOT TO EXCEED AT ANY TIME – mg/l
BOD	150
COD	250
TSS	200
Total Oils or Grease	15
Cyanide	1
Chlorides	250
Fluorides	None other than present in the public water supply

- (b) No discharge to public sewers may contain the following:
 Surfactants, emulsifiers, lubricating agents, detergents or other materials in concentrations or quantities which would interfere with the normal operation of treatment processes or facilities or which would cause an excessive loading of treatment facilities.

- (c) Compliance with the local limits shall be determined based on a per sample occurrence daily average for all composite sample parameters and a per sample occurrence daily maximum for all grab sample parameters, as outlined in Section 86-61 Sampling and testing.

(i) Sec. 86-45. Pretreatment requirements

- (a) Pretreatment Facilities

- (1) Industrial users shall provide wastewater pretreatment as necessary to comply with this Ordinance and shall achieve compliance with all Categorical Pretreatment Standards, Federal, State, and local limits, and the prohibitions set out in this Ordinance within the time limitations specified by the EPA, the State or the Director, 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 their operating procedures shall be submitted to the Director for review before such facilities are constructed. The review of plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this Ordinance. Any subsequent changes in the pretreatment facilities or their method of operation shall be reported to and be reviewed for approval by the Director prior to the user's initiation of the changes. All plans and drawings for installation of treatment facilities shall have been prepared and signed by a registered professional civil or sanitary engineer (PE) in the State of Texas.

- (b) Pretreatment Program Requirements

- (1) All industrial users found not to be in compliance, as determined solely by the Director, shall be required to develop a compliance schedule for the installation of technology required to meet applicable pretreatment standards. This schedule shall be submitted to the Director within 30 days of the effective date of this Ordinance.

- (c) Categorical Pretreatment Standards – Within sixty (60) days after the effective date of an applicable Pretreatment Standard user must submit a report to the POTW describing the results of the facility's determination of any Categorical Pretreatment Standard applicable to them. The facility must also demonstrate compliance with any applicable standards within 180 days. Any facility currently subject to any Categorical Pretreatment Standards must notify the Director in the required permit application.

- (d) Additional Pretreatment Measures

- (1) Whenever deemed necessary, the Director may require industrial users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the industrial user's compliance with the requirements of this Ordinance. The Director shall provide the user sufficient notice and explanation for any additional requirements, opportunity to respond to the notice, and opportunity to appeal the final decision.
- (2) The Director may require any industrial user discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization. The Director shall provide the user sufficient notice and explanation for any additional requirements, opportunity to respond to the notice, and opportunity to appeal the final decision.
- (3) Grease, oil and sand interceptors for industrial and nondomestic wastes shall be provided for the proper handling of wastewater containing excessive amounts of grease, oil, or sand. All interception units shall be of adequate capacity, shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature, and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by users at their expense. The Director shall provide the user sufficient notice and explanation for any additional requirements, opportunity to respond to the notice, and opportunity to appeal the final decision.
- (4) Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- (5) At no time shall two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter.

Sec. 86-46. Accidental discharge/slug control plans

At least once every two (2) years, the Director shall evaluate whether each Significant Industrial User needs an accidental discharge/slug control plan. The Director may require any industrial user to develop, submit for approval, and implement such a plan. Alternatively, the Director may develop such a plan for any user. 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 POTW of any accidental or slug discharge, as required by this Ordinance; and
- (d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures shall 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 structure or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

Sec. 86-47. Approving authority requirements

- (a) If industrial discharges or proposed discharges to public sewers may deleteriously affect wastewater facilities, processes, equipment or receiving waters; create a hazard to life or health; or create a public nuisance the Director shall require:
 - (1) Pretreatment to an acceptable condition for discharge to the public sewers;
 - (2) Control over the quantities and rates of discharge; and
 - (3) Payment to cover the cost of handling and treating the wastes.
- (b) The Director is entitled to determine whether an industrial discharge or proposed discharge is included under subsection (a) of this section.
- (c) The Director shall reject industrial wastes when:
 - (1) It determines that an industrial discharge or proposed discharge is included under subsection (a) of this section; and
 - (2) The industrial discharger does not meet the requirements of subsection (a) of this section.

(ii) Sec. 86-48. Approving authority review and approval

- (a) If pretreatment or control of sewage is required, the Director shall review and approve design and installation of equipment and processes.
- (b) The design and installation of all industrial pretreatment equipment and processes must conform to all applicable statutes, codes, Ordinances and other laws. All designs and plans submitted to the Director for pretreatment facilities must be prepared by a registered professional civil or sanitary engineer in the State of Texas.

- (c) Industrial users responsible for discharges requiring pretreatment, flow equalizing or other facilities shall provide and maintain the facilities in effective operating condition at their own expense.

Sec. 86-49. Industrial User wastewater discharge permit application program

- (a) Industrial user wastewater surveys

Within fifteen (15) days of the effective date of this pretreatment Ordinance, all industrial users identified and notified by the City as such, must submit the results of a wastewater survey conducted at their facility to the Director. This survey must include, at a minimum, the following information:

- (1) The name of the owner and operator of the industrial user;
 - (2) The facility name, address and standard industrial classification code;
 - (3) A schematic drawing indicating the location of all discharge points to the public sewer;
 - (4) Information concerning the flow and quality of all discharges to the public sewer, with reference to specific discharge points;
 - (5) Any existing analytical results conducted by the industrial user substantiating statements concerning the quality of specific discharges; and
 - (6) A statement regarding the ability of the industrial user to meet and comply with all pretreatment standards and requirements included in this Ordinance. This statement must be signed by an authorized representative of the corporation or company. If an industrial user determines that compliance with any pretreatment standard or requirement contained in this Ordinance cannot be achieved by the required effective date, then a compliance plan and schedule must accompany this statement. The compliance plan and schedule must describe in detail how and when compliance will be attained. Failure to implement specific items contained in the compliance plan, or failure to implement items within the time frame of the compliance schedule, shall be deemed violations of this Ordinance and shall subject the user to potential civil and criminal penalties.
- (b) All industrial users meeting the criteria for Significant Industrial User, unless otherwise authorized by the Director, must prepare and submit information on the nature and characteristics of its wastewater by completing a wastewater permit application. This application must be submitted within 30 days of the effective date of this Ordinance. Failure to submit required information shall be grounds for terminating service to the user and shall be considered a violation of this Ordinance. New industrial users must submit this permit application thirty days prior to commencement of their discharge.

(c) Industrial user wastewater discharge permit requirements

- (1) No significant industrial user shall discharge wastewater into the POTW without first obtaining permission by way of a permit from the Director. Existing users shall have thirty days from the effective date of this Ordinance during which to seek such approval by submitting a permit application to the Director. Existing users may continue to discharge during the permit review and issuance period provided that such discharge meets all of the discharge criteria specified in this Ordinance.

Any user determining that such compliance cannot be achieved, or any user who is aware that possible violation of any condition specified in this Ordinance regarding wastewater quality, must notify the Director of such noncompliance as soon as such knowledge is available. The Director may provide special authorization to these users provided a compliance plan and schedule has been submitted and approved by the Director.

- (2) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Ordinance and subjects the wastewater discharge permittee to the sanctions set out in this Ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State and local laws and regulations.

(d) Industrial user wastewater discharge permit application contents

All industrial users required to obtain a wastewater discharge permit must submit a permit application. The format for submittal of the permit application is left to the discretion of the industrial user; however, the users must submit as part of the application the following information at a minimum:

- (1) Identifying information. The name and address of the industrial facility, including the name of the operator and owner;
- (2) Environmental Permits. A list of any environmental control permits held by or for the facility;
- (3) Description of operations. A brief description of the nature, average rate of production and standard industrial classifications of the operations carried out by such user. This description should include a schematic process diagram, which indicates all points of discharge to the POTW;
- (4) A list of all raw materials and chemicals stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

- (5) Site plans, floor plans, mechanical and plumbing plans to show all sewers, floor drains, and appurtenances by size, location and elevation;
- (6) Description of the time and duration of discharge;
- (7) Flow Measurement. Information showing the measured or calculated average daily and maximum daily flow, in gallons per day, to the POTW from all discharge points. For calculated discharge quantities, the basis for all calculations must be documented;
- (8) Measurement of Pollutants. The results of sampling and analysis identifying the nature and concentration of regulated pollutants from each individual wastewater stream discharged to the POTW. These samples should include parameters known or suspected to be present in wastewaters based on the user's process knowledge or previous sample results. At a minimum, at least results must be submitted for a minimum of one sample from each discharge into the POTW for the following parameters: pH, Oil and Grease, Biochemical Oxygen Demand, Chemical Oxygen Demand and Total Suspended Solids. Other sampling parameters may be requested by the Director at a later date, based on information provided in the permit application;
- (9) Certification. A statement, reviewed and authorized by the industrial user's authorized representative indicating whether the pretreatment standards are being met, and if not, whether additional operation and maintenance and/or additional pretreatment, is required to meet the pretreatment standards and requirements;
- (10) Compliance schedule. If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the user must submit a compliance schedule indicating the completion date by which the users shall have provided such additional pretreatment or operation and maintenance. This compliance schedule shall not extend beyond 180 days from the effective date of this Ordinance. Any user not meeting the pretreatment standard and requirements of this Ordinance after this date shall be required to submit justifiable evidence for non-compliance. This evidence must be submitted before a hearing held by the City Council. Any user not meeting the pretreatment standards and requirements of this Ordinance 180 days after its effective date may only continue such discharge with special authorization granted by the hearing;
- (11) Any other information as may be deemed necessary by the Director to evaluate the wastewater discharge permit application;
- (12) Signature and Certification. All permit applications must be signed and certified by an authorized representative of the corporation or company. This statement must indicate whether the pretreatment standards are being met on a consistent basis, and if not, whether additional operation and

maintenance and/or additional pretreatment, is required to meet the pretreatment standards and requirements.

(e) Industrial wastewater discharge permit contents

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

(1) Industrial user wastewater discharge permits will contain the following conditions:

- (i) A statement regarding the industrial wastewater discharge permit duration, such in no event shall exceed five (5) years;
- (ii) A statement that the industrial wastewater discharge permit is nontransferable without prior notification to the City in accordance with this Ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (iii) Facility discharge limits to the POTW based on applicable pretreatment standards;
- (iv) Monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local laws and pretreatment requirements; and
- (v) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
- (vi) A statement that the permit may be revoked if the requirements for self-monitoring, reporting, compliance and any other requirement set forth in the permit or in this Article are not being met.
- (vii) A statement that the industrial user shall not allow a bypass to occur except as provided in Section 86-22.
- (viii) Requirements for reporting accidental and/or slug discharges as per the provisions of this policy.

- (ix) Requirements for reporting the introduction of any new wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.
 - (x) Requirements for the installation of inspection and sampling facilities, including requirements for Director access to such facilities.
- (2) Industrial user wastewater discharge permits may contain, but need not be limited to, the following conditions:
- (i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - (ii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW;
 - (iii) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
 - (iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - (V) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
 - (vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
 - (vii) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
 - (viii) Other conditions as deemed appropriate by the Director to ensure compliance with this Ordinance, and State and Federal laws, rules, and regulations.
- (f) Industrial user wastewater discharge permit appeals

The Director shall provide personal notice to the industrial user and published notice to the public of the issuance, modification, or denial of a wastewater

discharge permit. Any affected person, including the user, may petition the City Manager to reconsider the terms of an issued or modified wastewater discharge permit, or the denial of a permit, within thirty (30) days of notice of its issuance, modification, or denial.

- (1) Failure to submit a timely petition for reconsideration shall be deemed to be a waiver of the administrative appeal.
- (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit. Any reasons urged against a permit denial must be fully explained.
- (3) The effectiveness of the wastewater discharge permit, as issued or modified, shall not be stayed pending the appeal unless the City Manager expressly so states.
- (4) The City Manager shall respond in writing to any petition for reconsideration within sixty (60) days. In his response, the City Manager shall indicate his decision whether to affirm or modify the terms of any permit issued or modified, or whether upon reconsideration to deny the permit. If the permit was initially denied, the City Manager shall indicate his decision whether to affirm the initial denial or to vacate the initial denial and issue the permit upon specified terms. The City Manager's action upon any petition for reconsideration shall be considered final for purposes of any judicial review.
- (5) If the City Manager fails to act on any petition for reconsideration within sixty (60) days, the petition for reconsideration shall be deemed to be denied. Such deemed denial shall be considered final administrative action for purposes of any judicial review.
- (6) Aggrieved parties seeking any judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint in a court of competent jurisdiction within the appropriate statute of limitations.

(g) Industrial user wastewater discharge permit modification

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

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

- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - (4) Information indicating that the permitted discharge poses a threat to the POTW, City personnel, lines, or equipment or to the receiving waters;
 - (5) Violation of any terms or conditions of the wastewater discharge permit;
 - (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application 'or in any required reporting;
 - (7) To correct typographical or other errors in the wastewater discharge permit; or
 - (8) To reflect a transfer of the facility ownership or operation to a new owner or operator.
- (h) Industrial user wastewater discharge permit revocation

Industrial user wastewater discharge permits may be revoked for, but not limited to, the following reasons:

- (1) Failure to notify the Director of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the Director of changed conditions;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying information or reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the Director timely access to the facility premises and records;
- (7) Failure to meet facility discharge limits to the POTW;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules-;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application;

- (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Ordinance.

An industrial user will be notified of any proposed permit revocation and offered an opportunity to show cause why the proposed revocation should not occur. Industrial user wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

- (i) Industrial user wastewater discharge permit reissuance
 - (1) An industrial user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 86-49(d) of this Ordinance, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.
 - (2) An expired permit will continue to be effective and enforceable until the permit is reissued if.
 - (i) The industrial user has submitted a complete permit application at least ninety (90) days prior to the expiration date of the user's existing permit; and
 - (ii) 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 user.
- (j) Reports of Changed Conditions

Each industrial user must notify the Director of any planned significant changes to the user's operations of system which might alter the nature, quality or volume of its wastewater at least ninety (90) days before the change.

- (1) The Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an industrial user wastewater discharge permit application.
- (2) The Director may issue an industrial user wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.

- (3) For purposes of this requirement, significant changes include, but are not limited to, flow increases to twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

Sec. 86-50. Industrial User Record keeping requirements

- (a) Any industrial user shall maintain records of all information resulting from any monitoring activities required. These records must be retained for a minimum of three years. Such records shall be made available for inspection and copying by the POTW or any other duly authorized regulatory official.
- (b) Such records shall include for all samples:
 - (1) the date, exact place, method and time of sampling and the names of the persons taking the sample;
 - (2) the dates analyses were performed;
 - (3) who performed the analyses;
 - (4) the analytical techniques and methods used; and
 - (5) the results of such samples.

Sec. 86-51. Industrial User Reports of potential problems

- (a) In the case of any discharge, including, but not limited to accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the industrial user shall immediately telephone and notify the Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, (if known) and corrective actions taken by the user.
- (b) Within five (5) days following such discharge, the industrial user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences.
- (c) Failure to notify the Director of potential problem discharges shall be deemed a violation of this Ordinance.
- (d) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (a) above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

Sec. 86-52. Industrial User building sewers.

Any person responsible for sewer discharges through a building sewer carrying industrial wastes shall, at his own expense and as required by the approving authority:

- (a) Install an accessible and safely located control manhole;
- (b) Install meters and other appurtenances to facilitate observation, sampling and measurement of the waste;
- (c) Maintain the equipment and facilities; and
- (d) Install an accessible and representative compliance sampling point at each point of discharge to the public sewer.

The City will consult with users on the selection of appropriate control/compliance points from existing connections and/or manholes, if feasible.

Sec. 86-53. Industrial Users Sampling and testing requirements.

The following apply only to industrial users:

- (a) Sampling of industrial wastes discharged to the public sewer shall be conducted according to customarily accepted methods, reflecting the effect of constituents upon the POTW and determining the existence of hazards to health, life, limb and property.
- (b) Compliance samples shall be collected at a minimum of three times per week for Significant Industrial users. After six consecutive months of demonstrated compliance, the sampling frequency may be reduced to once per week. After twenty-four months of consecutive demonstrated compliance, the sampling frequency may be reduced to once per month. However, detection of any noncompliance will cause the sampling frequency to revert to the normal frequency of three times per week. For infrequent discharges (for example, cooling water that occurs annually), the industrial user shall advise the Director of the scheduled discharge in order to coordinate sample collection.
- (c) Compliance samples shall be collected at a minimum of once per month for Nonsignificant Industrial Users. After six consecutive months of demonstrated compliance, the sampling frequency may be reduced to twice per year. However, detection of any noncompliance will cause the sampling frequency to revert to once per month. For infrequent discharges (for example, cooling water that occurs annually), the industrial user shall advise the Director of the scheduled discharge in order to coordinate sample collection.
- (d) Compliance point samples shall be collected by the City and analyzed at the analytical laboratory contracted by the City. Industrial users may

collect split or independent samples at the same time that compliance samples are collected for their own informational purposes. However, only those samples collected by the City and analyzed by the contracted analytical laboratory will be recognized for compliance purposes. Should an industrial user feel that justifiable cause exists for contesting compliance point sample method or results, such user can petition the City Manager for a hearing. Only the City Manager can approve alternate sampling or analytical methods or the use of an alternate analytical laboratory for analysis of compliance samples.

- (e) The industrial user and the Director must agree on the location of all compliance sampling points. These points must be representative of the entire discharge to the POTW through that point. For intermittent discharges, a sampling schedule must be devised that enables the City to collect samples of each different type of discharge through a compliance point.

Samples of completely segregated sanitary sewer discharges at an industrial facility shall be sampled at a frequency of twice per year to ensure that no industrial wastes are commingled with sanitary wastes. The industrial user must provide certification to the City that a sanitary waste stream does not, or could not accidentally, contain any industrial wastes prior to discharge to the public sewer. Any commingled waste streams shall be sampled at the normal frequency for that industrial user (either three times per week or once per month).

- (f) The industrial user shall provide suitable access and sampling locations for each discharge to the POTW. The industrial user shall be solely responsible for the installation of sampling ports or sampling devices for each compliance sampling point.
- (g) At its discretion, the City may augment the sampling frequency; parameters monitored or request modifications to sampling points, and in Order to ensure that representative samples are collected of all discharges.
- (h) The industrial user shall be responsible for all costs incurred by the City for compliance sampling. These costs shall include, but are not limited to, sampling supplies and materials, personnel labor costs, sample shipping and packaging costs to the analytical laboratory and costs for all analyses performed at the laboratory. These costs will be billed to the user on a monthly basis. The Director shall provide the user with an invoice itemizing expenses and a copy of the analytical report.

Examination and analyses of the characteristics of waters and wastes required by this Article shall be:

- (1) Conducted in accordance with the latest edition of Standard Methods; and

- (2) Determined from suitable samples taken at the control manhole provided or other control point authorized by the approving authority.
- (k) BOD and suspended solids shall be determined from composite sampling.
- (1) Total oil and grease shall be determined from grab sampling.
- (m) The City may select an independent firm or laboratory to determine flow, BOD and suspended solids.
- (n) If independent sampling performed by a user indicates a violation, the user must notify the Director 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 Director within ten (10) days after becoming aware of the violation.

Sec. 86-54. Right of entry: Inspection and sampling

The Director shall have the right to enter the premises of any industrial or nondomestic user to determine whether the user is complying with all requirements of -this Ordinance, and any wastewater discharge permit or Order issued hereunder. Users shall allow the Director or his/her duty authorized representative or city employee ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties. Inspections will be conducted at a minimum twice per year and the frequency will depend on the nature and type of industrial process as is specified in the City's pretreatment program.

- (a) Where an industrial user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (b) The Director shall have the right to set up on the industrial user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- (c) The Director may require the industrial user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated biennially to ensure their accuracy.

Sec. 86-55. Publication of Industrial users in significant noncompliance

The Director shall publish annually, in the largest daily newspaper published in the City, a list of the industrial Users which, during the previous twelve- (12) months, were in

significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six-(6) month period exceed the daily maximum limit or average limit for the same pollution parameter by any amount;
- (b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, COD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (c) Any other discharge violation that the Director believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- (d) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge;
- (e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or Enforcement Order for starting construction, completing construction, or attaining final compliance;
- (f) Failure to provide within thirty (30) days after the due date, required permit applications and reports on compliance with compliance schedules;
- (g) Failure to accurately report noncompliance; or
- (h) Any other violation(s), which the Director determines, will adversely affect the operation or implementation of the local pretreatment program.

Sec. 86-56. Notification of sample results

Within seven (7) days of receiving the results of all compliance samples, copies of the analytical reports shall be sent to each industrial user. All analyses indicating an excessive concentration, greater than that allowed by either the pretreatment standards and requirements of this Ordinance, or permitted by specific permit limits, shall be deemed a violation of this Ordinance.

Sec. 86-57. Enforcement.

In accordance with 40 CFR 403.8(f)(5)(ii), the City has adopted an enforcement response plan (ERP), including an enforcement response guide (ERG) which shall be used by the City in initiating and, if necessary, in escalating enforcement responses with regard to

any instance of user non-compliance. The ERP is subject to change as required, and it is consistent with approved City procedures and guidelines.

Users who violate any term or condition of this Ordinance or of their permit shall be subject to enforcement action(s) by the City. Such enforcement action(s) may include legal action or other appropriate enforcement remedies as provided for below.

The City may, at any time, seek legal any/or equitable remedies, or prosecute criminal charges against any person, corporation or other entity believed to be in violation of this Ordinance; the provisions of an industrial wastewater discharge permit; and/or any federal or state law or regulations governing water quality or industrial wastewater pretreatment over which the City has been given enforcement powers. The City's legal staff is hereby authorized and instructed to commence such actions for appropriate legal and/or equitable relief in courts having proper jurisdiction and may seek civil and/or criminal penalties, and any other legal or equitable relief available under common law, Chapter 54 of the Texas Local Government Code, or any other applicable local, state, or federal code or statute.

Sec. 86-58. Notice of Violation (NOV).

- (a) When the Director finds that a user has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may serve upon that user a written Notice of Violation within ten (10) days, explaining the violation and requesting a plan for the satisfactory correction and prevention of further violations. If the User denies that any violation occurred and/or contends that no corrective action is necessary, an explanation of the basis of any such denial or contention shall be submitted to the Director within ten (10) days of receipt of the Notice. Submission of an explanation and/or 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 Director to take any action, including emergency actions or any other enforcement action, prior to issuing a Notice of Violation.
- (b) Response by the industrial user to the notice of violation.

The industrial user responding to receipt of a Notice of Violation shall file a written response in the following form:

- (i) The industrial user shall submit a written report within ten (10) working days to the Director. If the violation involves a discharge that is prohibited, or exceeds quantity, quality, or concentration limitations, the report shall contain information regarding the time, date, location, cause, source, quantity, quality and concentration of the discharge and the corrective measures actually taken, or to be taken, by the industrial user to correct and prevent any similar recurring discharges. If the violation is an administrative or procedural violation, the report shall contain information

regarding corrective measures and time schedules the industrial user has adopted to assure expeditious compliance.

- (ii) Should the recipient of a Notice of Violation fail to respond in writing to the Director within the initial ten (10) working day response period, the user shall be considered in violation of this section with each day resulting in a separate violation. Such failure to respond may be cited by the Director in any legal proceeding in the appropriate municipal, county, district, or federal court.

Sec. 86-59 Consent Orders

The Director may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any industrial or nondomestic user responsible for noncompliance. Such documents may include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the Administrative Orders issued pursuant to this Ordinance and shall be judicially enforceable.

Sec. 86-60. Compliance Orders

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

Sec. 86-61. Cease and desist Orders

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

- (a) Immediately comply with all requirements; and

- (b) Take such appropriate remedial or preventive action as may be needed to properly address continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a Cease and Desist Order shall not be a bar against, or a prerequisite for, taking any other action against the user.

Sec. 86-62. Emergency suspension of Discharge

The Director may immediately and unilaterally suspend an industrial or nondomestic user's water and/or wastewater services after written notice to the user that is practical under the circumstances, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present an endangerment to the health, safety, or welfare of persons; threatens to interfere with the operation of the POTW, presents, or may present, an endangerment to the environment; or significantly contributes to violations of the City's TNRCC or NPDES permit conditions at the POTW.

- (a) Any user notified of a suspension of its water or wastewater services shall immediately stop or eliminate its discharge. In the event of a user's failure to immediately comply voluntarily with the Suspension Order, the Director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Director that the period of endangerment has passed.
- (b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement to the Director, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence.
- (c) Costs incurred by the City or its agents in detecting, investigating, monitoring, measuring and eliminating the discharge, along with any sewer disconnect fees and administrative penalties shall be reimbursed to the City within thirty (30) days of billing. Any damages to the POTW resulting from the discharge shall also be reimbursed to the City.

Sec. 86.63 Termination of discharge

In addition to the other provisions in this Ordinance, any industrial or nondomestic user who violates the following conditions is subject to discharge termination:

- (a) Violation of wastewater discharge permit conditions;
- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge;

- (c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
- (e) Violation of the pretreatment standards of this Ordinance and any failure to provide, operate and maintain any wastewater pretreatment equipment. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under this Ordinance to the Director why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the user.

Sec. 86-64. Injunctive relief

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

Sec. 86-65. Civil penalties

- a) An industrial user who has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit, or Order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a civil penalty of not less than \$1,000.00 per violation, per day, not to exceed \$5,000.00 per violation, per day. In the case of a monthly or other long term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (b) The City may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City, as well as civil penalties, in any court of competent jurisdiction.
- (c) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

- (d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other enforcement action against a user.

Sec. 86-66. Criminal prosecution

- (a) Violations of this Ordinance shall be considered misdemeanors. The City may pursue all criminal remedies to which it is entitled under authority of statutes and Ordinances against a person(s) or corporation who negligently, willfully or maliciously falsifies information regarding discharges, falsifies information included in permit applications or certifications, or causes loss or damage by tampering with or destroying any structure, appurtenance or equipment which is part of the POTW.
- (b) An industrial, nondomestic or domestic user who has:
 - (1) willfully or negligently violated any provision of this Ordinance, a wastewater discharge permit, or Order issued hereunder, or any other pretreatment standard or requirement; or
 - (ii) willfully or negligently introduced any substance into the POTW which causes personal injury or property damage, or
 - (iii) knowingly made any false statements, representations, or certifications in any Application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Ordinance, wastewater discharge permit, or Order issued hereunder, or
 - (iv) falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this Ordinance; shall be guilty of a misdemeanor, and may be subject to a fine or penalty not to exceed \$2,000.00 and other judicial sanctions.

Sec. 86-67. Remedies nonexclusive

The remedies provided for in this Ordinance are not exclusive. The Director may take any, all, or any combination of these actions against a noncompliant user.

Sec. 86-68. Water supply severance

Whenever an industrial or nondomestic user has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit, or Order issued hereunder, or any other pretreatment standard or requirement, water service to the industrial user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

Sec. 86-69. Upset

- (a) For The purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.
- (b) An upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of paragraph (c), below, are met.
- (c) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The industrial user has submitted the following information to the Director within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
 - (i) A description of the indirect discharge and cause of noncompliance;
 - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (e) Industrial users will have the opportunity for a judicial determination of any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (f) Industrial users shall control production -of all discharges to the extent necessary to maintain compliance with the categorical. pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative

method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of 'the treatment facility is reduced, lost, or fails.

Sec. 86-70. Fees for reimbursement of costs

The City hereby adopts fees for reimbursement of costs of setting up and operating the City's Pretreatment Program, which may include:

- (a) Fees for wastewater discharge permit applications, including the cost of processing such applications \$250.00;
- (b) Fees for monitoring, inspection, and surveillance procedures including the cost of collecting and analyzing a user's discharge, and reviewing monitoring reports submitted by users \$50.00 per sampling event, not including the cost of any laboratory analyses;
- (c) Fees for reviewing and responding to accidental discharge procedures and construction; and
- (d) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Ordinance and are separate from all other fees, fines, and penalties chargeable by the City.

(iii) Section II. Separability

If any court of competent jurisdiction rules that any section, subsection, sentence, clause, phrase, or portion of this ordinance is invalid or unconstitutional, any such portion shall be deemed a separate, distinct, and independent provision, and any such ruling shall not affect the validity of the remaining portions hereof.

(iv) Section III. Penalties and Fines

Any person convicted of a violation of this ordinance shall be fined in an amount not to exceed \$2,000.00. Each day or fraction of a day during which this ordinance or any part thereof is violated shall be deemed a separate offense and punishable as such.

(v)

(vi) Section IV. Effective Date

This ordinance shall be effective on October 1, 2002 at 12:01 A.M.

(vii) Section V. Passage and Approval

PASSED AND APPROVED by the City Council of the City of Wharton, Texas, this 26th day of August 2002.

CITY OF WHARTON, TEXAS

By: _____
GARLAND S. NOVOSAD
Mayor

ATTEST:

LISA STAVENA
Deputy City Secretary

APPROVED AS:

PAUL WEBB
City Attorney

Published in the Wharton Journal Spectator Saturday, August 31, 2002 and Saturday, September 7, 2002.

Councilmember Darryl Darnell seconded the motion. All voted in favor.

The fourteenth item on the agenda was to review and consider approving the Wharton Economic Development Corporation's request to provide funding for a Veteran Home proposed project. City Manager Andres Garza, Jr. presented a copy of the letter dated August 20, 2002 from Wharton Economic Development Corporation (WEDCo) Executive Director David Schroeder regarding the proposed veteran home project. Mr. David Schroeder addressed the City Council and stated that the cost would not exceed \$100,000. He stated that the City of Wharton would not receive taxable property on the tax rolls, however an average of 150 citizens would reside in the facility with employment opportunities. After some discussion, Councilmember Domingo Montalvo, Jr. made a motion to approve the Wharton Economic Development Corporation's request to provide funding for a Veteran Home proposed project. Councilmember V. L. Wiley, Jr. seconded the motion. Councilmember Don Mueller abstained. Councilmember V. L. Wiley, Jr., Darryl Darnell, Ken Freese, Bryce D. Kocian, Domingo Montalvo, Jr., and Bryce D. Kocian voted for the motion. The motion carried.

The fifteenth item on the agenda was to review and consider authorization for the City Staff to solicit bids for the remount of an ambulance and to purchase chassis. City Manager Andres Garza, Jr. presented a copy of the letter dated August 14, 2002 from the Gulf Coast Medical

Foundation informing the City of Wharton EMS of the grant award of \$65,500 to remount and purchase a new chassis for an ambulance. He then presented a copy of the grant application to the City Council. He stated that the City Staff was requesting City Council authorization to solicit bids for the remount of an ambulance and to purchase a new chassis. EMS Director John Kowalik addressed the City Council regarding advertising for the purchase of a diesel chassis, since the department was happy with the performance and the fuel economy. Councilmember Bryce D. Kocian publicly thanked John Kowalik for obtaining the grant. After some discussion, Councilmember Bryce D. Kocian made a motion to accept the grant and authorize the solicitation for bids for the remount of an ambulance and to purchase chassis. Councilmember Ken Freese seconded the motion. All voted in favor.

The sixteenth item on the agenda was to review and consider the request by City Attorney Paul Webb regarding the City of Wharton City Charter Article V – Attorney. City Manager Andres Garza, Jr. presented a copy of the letter dated August 22, 2002 from City Attorney Paul Webb requesting to be placed on agenda for City Council consideration of the City of Wharton Charter Article V – Attorney. After some discussion, Councilmember Darryl Darnell made a motion to authorize City Attorney Paul Webb to appoint assistants or other employees to provide work for the City of Wharton. Councilmember Don Mueller seconded the motion. All voted in favor.

The seventeenth item on the agenda was to review and consider City Council acceptance of resignation of Ms. Pricilla Dobbins from the Wharton Economic Development Corporation Board of Directors. City Manager Andres Garza, Jr. presented a copy of the letter dated August 20, 2002 from Wharton Economic Development Corporation (WEDCo) Executive Director David Schroeder informing the City of Ms. Pricilla Dobbins' resignation from the WEDCo Board of Directors. After some discussion, Councilmember Bryce D. Kocian made a motion to accept the resignation of Ms. Pricilla Dobbins from the Wharton Economic Development Corporation Board of Directors. Councilmember Don Mueller seconded the motion. All voted in favor.

The eighteenth item on the agenda was to review and consider the Office of Rural Community Affairs, Texas Community Development Program 2003/2004 Funding Cycle. City Manager Andres Garza, Jr. informed the City Council that on August 6, 2002, Community Services Director Jo Knezek, Public Works Director Phil Bush, and himself attended the Houston Galveston Area Council Regional Planning meeting in Houston. During the meeting, HGAC provided the attendees with information relating to the Office of Rural Community Affairs, Texas Community Development Program 2003/2004 Funding Cycle. The next round of applications was due September 26th and the City Staff was requesting City Council authorization to apply under the program. He then presented a copy of the public hearing notice which was published in the Wharton Journal Spectator August 21, 2002 that will be held August 26, 2002. He presented a copy of the information regarding the Texas Community Development Program for this funding cycle. Mr. Garza stated on September 9, 2002, the City Council would address the approval of the Resolution to authorize the project. After some discussion, no action was taken.

The nineteenth item on the agenda was the Boards, City Council Committee, and Commission Reports:

- A. Beautification Commission meeting held August 14, 2002.

- B. Wharton Economic Development Corporation meeting held August 20, 2002.
- C. City Council Finance Committee meeting held August 22, 2002.
- D. City Council Streets & Drainage Committee meeting held August 22, 2002.
- E. Wharton Regional Airport Board meeting held August 23, 2002.

City Manager Andres Garza, Jr. presented the reports to the City Council. After some discussion, Councilmember V. L. Wiley, Jr. made a motion to approve the reports as presented. Councilmember Ken Freese seconded the motion. All voted in favor.

The twentieth item on the agenda was City Manager's Reports:

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| A. Police Department. | I. Engineer/Planning Department. |
| B. City Secretary/Personnel. | J. Facilities Maintenance Department. |
| C. Municipal Court. | K. Community Services Department/
Civic Center. |
| D. E.M.S. Department. | L. Wharton Municipal Pool. |
| E. Fire Department Incidents/Inspections. | M. Wharton Regional Airport. |
| F. Code Enforcement Department. | N. Legal Department. |
| G. Water & Sewer Department. | O. Weedy Lots/Sign Ordinance. |
| H. Public Works Department. | |

City Manager Andres Garza, Jr. presented the reports to the City Council. No action was taken.

The twenty-first item on the agenda was adjournment. After some discussion, Councilmember Don Mueller made a motion to adjourn. Councilmember V. L. Wiley, Jr. seconded the motion. All voted in favor.

The meeting was adjourned at 9:55 p.m.

CITY OF WHARTON, TEXAS

By:

GARLAND S. NOVOSAD
Mayor

ATTEST:

JOYCE VASUT
City Secretary