

**CITY OF ALTON**  
**SEWERS AND FIRE PROTECTION WATER**  
**Ordinance 2010-09**  
**Amending**  
**ORDINANCE NO. 99-04 as amended**

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**ARTICLE I. RULES, REGULATIONS AND RATES OF THE ALTON  
WASTEWATER AND FIRE PROTECTION SYSTEMS**

**Sec. 30-1. Compliance with rules and regulations of board of trustees of wastewater and fire protection systems required; basis for wastewater and fire protection rates.**

It shall be unlawful for any person to take from any main lateral or pipe any water placed therein by the City of Alton Wastewater and Fire Protection Systems for any use or purpose in violation of any use or purpose in violation of any rule made by the board of trustees of the Alton Wastewater and Fire Protection Systems.

It is hereby determined and declared to be necessary for the city to levy and collect monthly charges from all persons and entities receiving and using services from the lines of the Alton Wastewater and Fire Protection Systems. The monthly wastewater charges shall be based on a volume consumed basis for all users. The monthly fire protection system charges shall be based on a flat monthly fee by development type.

**Sec. 30-2 Rates for Fire Protection System**

The standard monthly fire protection rate shall be according to the following rate schedule:

- (a) Residential.....\$1.50
- (b) Nonresidential.....\$3.00
- (c) Schools.....\$5.00
- (d) Churches & Charitable Institutions.....\$1.50

**Sec. 30-3 Tampering with, injuring, etc., sewage works property prohibited.**

No unauthorized person shall maliciously, willfully, or negligently, break, damage, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the Alton Wastewater or Fire Protection Systems. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

**Sec. 30-4. Meters.**

A mechanical device for the measuring of water delivered through it, known as a water meter, as selected by the Sharyland Water Supply Corporation or its successors, from time to time, shall be installed on every water line delivering water to every person or entity purchasing and having water delivered to it from the lines of the Sharyland Water Supply Corporation or its successors, within the City of Alton Wastewater Certificate of Convenience and Necessity (CCN) and such meters and their reporting information shall be used in the usual and ordinary manner for determining the monthly water consumption by each such person or entity having water delivered

to it, as the basis for the monthly Alton Wastewater and Fire Protection System charges.

**Sec. 30-5--30-13. Reserved.**

**ARTICLE II. SEWER RATES**

**Sec. 30-14. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this article:

**Act or “the Act.”:** The Federal Water Pollution Control Act, also know as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

**Apartment house:** A single or multiple structure constituting a collection of dwellings for a housing a number of people grouped in three (3) or more families, assigned to different sections in the same structure or structures.

**Boarding house:** A place where one obtains meals or meals and lodging in another’s house for a stipulated price, such lodging being that as described in the definition for rooming house.

**B.O.D. (biochemical oxygen demand):** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade, expressed in parts per million by weight.

**Business and commercial concerns:** Any privately owned going business operated for the purpose of private gain.

**Charitable institution:** An organization or endeavor, not privately owned, engaged in some activity for the benefit of humanity, and operated on a nonprofit basis and without private gain.

**Commercial laundries:** Privately owned regular type laundries and self-service laundries operated for the purpose of private gain. A regular type laundry is one engaged in the business of the complete process of laundering clothing, whether it be the finished laundered product, wet wash or rough dry. A self-service commercial laundry is one furnishing building space, water-using clothing-washing devices, water and electric power to customers desiring same, for use by such customers in the washing of clothing.

**Dry-operated industrial and manufacturing concerns:** Those privately owned concerns engaged in a private business for private gain wherein, included in their operation is the manufacturing and/or processing of any product or item, and in which manufacturing and/or processing water or other liquids resulting in liquid or solid bearing liquid wastes are not involved.

**Family:** Any number of individuals living together as a single housekeeping unit.

**Fixtures:** Bathtub, shower baths, lavatory, commode, laundry tub, washing machines, urinals, sink, floor drains, drinking fountain and all other plumbing fixtures through which wastewater or other disposal is conveyed into the sanitary sewer system.

**Industrial sewage:** Liquid waste from wet-operated industrial and manufacturing concerns as such concerns are described in this section.

**One-family residence:** A building used exclusively as living quarters for a family and occupied by only a single family.

**pH:** A measure of the acidity or alkalinity of a solution, expressed in standard units.

**Roominghouse:** A house or building where there are one (1) or more bedrooms which the proprietor uses for the purpose of furnishing lodging to such persons he shall choose, for which lodging he receives a compensation.

**Sanitary sewage/wastewater:** A combination of the water carried waste from residences, commercial and business buildings, institutions, and industrial establishments.

**Sanitary sewer/wastewater system:** The sanitary sewer system of the city consisting of disposal plant, gathering lines, lift stations, and all other facilities thereof into which sanitary sewage is deposited for transportation, treatment and ultimate disposal.

**Solid wastes:** Those wastes resulting from the maintenance and operation of a residence, business or commercial concern, charitable institutions, industrial and manufacturing concerns and any other endeavor, which, if deposited into the sanitary sewage conduits on private properties and into the sanitary sewer lines of the city, cannot be conveyed to such conduits and lines by a liquid bearing substance without clogging or blocking such private conduits and public sanitary sewer lines.

**Two-family residence:** A building used exclusively as living quarters for two (2) families and occupied by not more than two (2) families.

**Wet operated industrial and manufacturing concerns:** Those privately owned concerns engaged in a private business for private gains wherein, included in their operations is the manufacturing and/or processing of any product or item, and in which manufacturing and/or processing water or other liquids resulting in liquid or solid bearing liquid wastes are involved.

## **Sec. 30-15. Basis for charges.**

It is hereby determined and declared to be necessary for the city to levy and collect charges from all persons using the wastewater system and lines of the City of Alton. The U.S. Environmental Protection Agency has mandated that local charges for furnishing sewer service including processing the effluent shall be based upon the amount of water consumed by each user and introduced into the Alton Wastewater system. Accordingly, the charges for sanitary sewer service furnished by the city as hereinafter established shall be based upon a fixed charge and in addition thereto the amount of water delivered to each metered user within the city's CCN the amount as hereinafter set forth in this article, such hereinafter enumerated rates being based upon factors a major one of which is the cost to the city of inflation

**Sec. 30-16. Charge for single-family residences.**

For single-family residences, the amount of water metered to such residences each month would result in such a grossly inaccurate calculation of effluent from such users being introduced into the sanitary sewer system of the city that a separate calculation for such users is necessitated.

- (a) On the first day of January of each year or as soon thereafter as practical, the Alton Wastewater System shall review the account of each single-family residential customer to determine the six (6) months in which water consumption by such user in the preceding year (January first through December thirty-first) was the lowest. The number of gallons used by such user during said six (6) months of lowest consumption in the prior calendar year shall be averaged, and such averaged amount of gallons shall be referred to as an average monthly rate (AMR) of such user. The AMR shall not exceed fifteen thousand (15,000) gallons per month per single-family user. The AMR is hereby established as the monthly amount of sewage effluent that each single-family residential user introduces into the Wastewater System of the city. The AMR is hereby determined to be a reasonable method by which to determine the amount of effluent introduced into the Wastewater system of the city. The AMR is the amount of gallons on which will be calculated the sewer charges assessed against such users, in addition to the flat rate as hereinafter provided.
  
- (b) In the event a new single-family residential home is constructed and with a swimming pool or extensive green landscaping (since such new users have no prior history upon which a calculation can be made to utilize the AMR as hereinafter set forth), a flat rate of twenty four dollars and fifty cents (\$24.50) is hereby established to stay in full force and effect as the rate for such new single-family residential user until the expiration of twelve (12) full months from the date of completion of such new home or connection of the home to the sewer, at which time such rate will be reviewed, the six (6) lowest months of the preceding twelve (12) month shall be determined and such rate shall be adjusted in accordance with the hereinabove set forth provisions for those single-family residential users; and such new AMR shall be effective on the first day of the next

following month after such calculation.

- (c) The Alton sewer rates for the previous year shall be automatically adjusted for inflation each year on the January first by 2.00 percent and shall be reflected on the customer's January statement. This inflation adjustment shall occur automatically unless increased or decreased by a two-thirds majority of the Alton Utility Board of Trustees. The City City Commission may suspend the 2.00 percent automatic inflation adjustment or overrule the Alton Utility Board of Trustees actions only upon a four-fifths majority vote of the City Commission.

### **Sec. 30-17 Charges for users of Wastewater service within the city's CCN.**

For all users of wastewater service within the city's CCN, the monthly charge to be paid by those users of sewer service furnished by the city's wastewater system shall be as follows:

- (a) A flat rate of twelve dollars and fifty cents (\$12.50) per month shall be billed to each residential user having a sewer connection as a flat base sewer service charge.
- (b) A flat rate of seventeen dollars and seventy-cents (\$17.75) per month shall be billed to each school, business, commercial or industrial user having a sewer connection as a flat base sewer service charge.
- (c) A charge of one dollar and fifty cents (\$1.50) per one thousand (1,000) gallons or fraction thereof, of effluent shall be charged to each user, with such effluent discharged into the sanitary sewer system of the city being hereby determined as eighty per cent (80%) of the amount of water metered to such user.

### **Sec.30-18. Charges for commercial laundries, soft drink bottling plants and wet operated industrial and manufacturing concerns.**

The determination of the volume of water used for the purpose of computing the foregoing rates shall be as follows:

- (a) ***For commercial laundries and wet operated industrial and manufacturing concerns:*** For each monthly charge, eighty-six (86) per cent of the water metered to such concern for such month through the facility of the Sharyland Water Supply Corporation or it's successors system; provided, that in the event such concern does not acquire its water from the Sharyland Water Supply Corporation system a water meter of a type to be approved by the city shall be installed in such manner as to measure to entire volume of water used by such

concern for which such monthly figure of eighty-six (86) percent may be determined.

- (b) ***For soft drink bottling plants:*** For each monthly charge, sixty-eight (68) per cent of the water metered to such concern for such month through the facility of the Sharyland Water Supply Corporation or its successors system; provided, that in the event such concern does not acquire its water from the Sharyland Water Supply Corporation or its successors system a water meter of a type to be approved by the City of Alton shall be installed in such a manner as to measure the entire volume of water used by such concern form such monthly figure of sixty-eight (68) per cent.

**Sec. 30-19. Residences and commercial users utilizing water for irrigation or swimming pool purposes.**

For such other commercial and residential users not utilizing the sprinkler or swimming pool rate and who use water for irrigation or swimming pool purposes, an application may be made for review of such user's monthly consumption by such user during the preceding year, and by such other investigation as the manager of the Alton Wastewater System deems necessary, the manager of the Alton Wastewater System shall determine whether or not such applicant uses water for irrigation or swimming pool purposes to water lawns, trees, or other landscaping purposes or use in a swimming pool wherein such water does not become a part of the effluent of such user. If it is determined that such user does utilize a portion of the water metered to such user for irrigation or swimming pool purposes, such users shall be entitled to be charged in the AMR calculated in the same way as set forth in subsection 30-16 (a), (b) and (c) above.

**Sec. 30-20. Reserved.**

**Sec. 30-21. Reserved.**

**Sec. 30-22. Ice manufacturing, water processing.**

There is herewith excepted from the classification of wet operated industrial and manufacturing concerns as provided for in this article the manufacturing and/or industrial concerns involved in the manufacturing and sale of ice and/or the processing and sale of pure water for drinking purposes. Such manufacturing and/or industrial concerns as herewith excepted shall be subject to the monthly sanitary sewer rate charge as provided for in section 30-19.

**Sec. 30-22.1. Charges for nonresident users.**

For all sanitary sewer service furnished outside of the city's CCN, the charge for said service shall be one-hundred and twenty five percent (125%) of the rate rounded up to nearest twenty-five (25) cents for similar service furnished within the limits of the city's CCN.

**Sec. 30-23. Billing procedure generally.**

The charges set forth in this article shall be due and payable monthly as water bills are paid to the Sharyland Water Supply Corporation and such charges shall be due and payable monthly as water bills are paid to the Sharyland Water Supply Corporation at the office of the Sharyland Water Supply Corporation and the sewer charges shall be placed upon the same bill with the water bill, as a separate item, and the Sharyland Water Supply Corporation shall not accept payment of water bills unless the sewer bill is paid also, and likewise the Sharyland Water Supply Corporation shall not accept payment of the sewer charges unless the water charges are paid also.

**Sec. 30-24. Maximum time for payment of bill; discontinuance of water service for failure to pay.**

All bills for service rendered by the sewer system shall be payable monthly within ten (10) days after the billing date, and unless paid within sixty (60) days after the billing date, water service shall be discontinued.

**Sec. 30-25. Disconnection of sewer service for failure to pay bill; full payment required for reconnection.**

Any person who shall fail to pay the sewer charge and/or rental as levied and assessed in this article within sixty (60) days from the time the same becomes due and payable shall be subject to have their sewer disconnected from the city's Wastewater system and lines and thereafter no sewer connection which has been disconnected for the nonpayment of charges shall be again reconnected for the same user until all costs incurred in the actual physical disconnect and reconnect have been paid and all delinquent sewer service charges have been paid to the city.

**Sec. 30.26. Assessment of charges.**

The charges assessed in this article shall be assessed against the person in whose name the water meter is assessed, whether or not such meter is owned by the Sharyland Water Corporation. In the event any person is connected to or is using the Wastewater System of the city and is not connected to the water of the Sharyland Water Supply Corporation, then in that event the charges herein shall be assessed in the name of the person connected to and using the city's Wastewater system.

**Secs. 30-27 - 30-36. Reserved.**

## ARTICLE III. INDUSTRIAL WASTE DISCHARGE

### DIVISION 1. GENERAL PROVISIONS

#### **Sec. 30-37. Chapter designation.**

This article of the Code of Ordinances of the City of Alton is hereby designated and shall be known and referred to as the “Industrial Waste and Water Pollution Control Article” of said Code, and shall be referred to herein as “this article”.

#### **Sec. 30-38. Purpose and policy.**

This article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the city and is implemented and enforced by the Alton Wastewater System and enables the city to comply with all applicable state and federal laws including the Clean Water Act as amended (33 V.S.C. 1254 E.T. seq.) General Pre-treatment Regulation (40 CFR, Part 403).

The objectives of this article are:

- (a) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system inadequately treated into receiving waters or the atmosphere, or otherwise be incompatible with the system;
- (c) To improve the opportunity to recycle and reclaim wastewater and sludge from the system;
- (d) To provide for equitable distribution of the cost of the municipal wastewater system between residential users, commercial users and industrial users;
- (e) To monitor and regulate the generation, transportation, and disposal of industrial and hazardous wastes that could enter the wastewater collection and treatment system. All categorical pretreatment standards, lists of toxic pollutants, industrial categories and other standards and categories which have been, or which will be promulgated by the EPA, shall be incorporated as a part of this article, as will EPA regulations regarding sewage pretreatment establish pursuant to the Clean Water Act; an amendment of this article to incorporate such changes shall not be

necessary. The control authority shall endeavor to notify all affected users within ninety (90) days, as promulgated changes are incorporated, but all affected users shall keep themselves informed of all changes to the laws.

This article shall apply to residents and businesses of the city and to persons and businesses outside the city who, by permit, regulation, policy, or agreement with the city, or otherwise are users of the POTW, or who conduct business in the city. Except as otherwise provided herein, the utility board of trustees of the city Wastewater system (control authority) shall administer, implement, and enforce the provisions of this article.

### **Sec. 30-39. Definitions.**

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

**Abnormal sewage:** Any industrial waste having a TSS or BOD content in excess of that found in normal domestic wastewater and which is otherwise acceptable for discharge into a sanitary sewer under the terms of this article.

**Abnormal sewage surcharge:** The charge levied against any person or business for services rendered during treatment of abnormal sewage. This charge shall be in addition to the usual monthly charge for sewage service.

**Act of "The Act":** The director in a TPDES state with an approved state pretreatment program (Texas Commission on Environmental Quality) and the appropriate EPA regional administrator in a non-NPDES state or NPDES state without an approved state pretreatment program.

**Approval Authority:** The director in a NPDES state with an approved state pretreatment program (Texas Commission on Environmental Quality) and the appropriate U.S. EPA regional administrator in a non-NPDES state or NPDES state without an approved state pretreatment program.

#### **Authorized representative of industrial user:**

- (1) A responsible corporate officer if the industrial user is a corporation. For the purpose of this paragraph, a responsible corporate officer means:
  - a. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or
  - b. The manager of one (1) or more manufacturing, production, or operation facilities

employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,00,000.00) (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

- (2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship, respectively;
- (3) The administrator, chairman, director, or principal executive responsible for operations if the industrial user is a municipal, state or federal facility;
- (4) A duly authorized representative of the individual designated above if:
  - a. The authorization is made in writing by the individual described in paragraph (1), (2) or (3);
  - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company;
  - c. The written authorization is submitted to the control authority.

**Biochemical oxygen demand (BOD):** The quantity of oxygen utilized in the biochemical oxidation of organic matter specified by procedure in 40 CFR 136, and results expressed in terms of concentration (milligrams per liter).

**Categorical industrial user:** Any existing or new industrial user subject to categorical pretreatment standards.

**Categorical standards:** National categorical pretreatment standards or pretreatment standards.

**Chemical oxygen demand (COD):** The measure of the oxygen consuming capacity of inorganic and organic matter present in the water or wastewater expressed in mg/l as determined by the amount of oxidant consumed from a chemical reflux in 40 CFR 136. Such term does not, however, differentiate between stable and unstable organic matter, and therefore does not necessarily correlate with biochemical oxygen demand.

**City:** The City of McAllen (Control Authority) and or the City of Alton, Texas.

**City of McAllen Wastewater Systems:** The POTW operated by the City of McAllen, McAllen Public Utility Board .

**Composite sample:** (Also referred to as flow proportional composite sample.) The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

**Control authority:** The City of McAllen Public Utility Board (MPU) to enable the City of McAllen to comply with the TPDES permit.

**CWA:** See Act.

**Daily Average Limit:** The average allowable daily discharge

**Daily Discharge:** The discharge of a pollutant measured during any 24-hour period.

**Daily Maximum Limit:** The highest allowable daily discharge.

**Direct discharge:** The discharge of treated or untreated wastewater directly to the waters of the State of Texas.

**Discharge:** In its verb form, to deposit, conduct, drain, emit, throw, run, allow to seep or otherwise release or dispose; or to allow, permit, or suffer any of these acts or omissions. In its noun form, discharge is the product of any of these acts

**Dilution:** An increase in the use of process waters or other waters as a partial or complete substitute for adequate treatment to achieve compliance with the standards for wastewater discharge.

**Disposal:** The discharge, deposit, injection, dumping, spilling, leaking or placing of liquid or solid, industrial or hazardous waste into or on land, water, or the POTW.

**Domestic holding tank waste:** Any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks, and/or vacuum pump tank trucks, generated from a domestic source.

**Environmental Protection Agency or EPA** means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the regional water management division director or other duly authorized official of said agency.

**Garbage:** Animal and vegetable wastes and/or residue from preparation, cooking and dispensing of food, and from the handling, processing, storage and sale of food products and produce.

**General Manager:** The person designated by McAllen Public Utility (MPU) who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.

**Generator:** A person who causes, creates generates, or otherwise produces waste.

**Grab sample:** A sample which is taken from a waste stream, on a one-time basis, with no regard to the flow in the wastestream and without consideration of time.

**Grease:** Fatty acids, soaps, fats, waxes, oils, and any other material extracted by solvent from acidified samples and not volatilized during evaporation of the solvent as specified in standard methods.

**Hazardous waste:** Any liquid, semi-liquid or solid waste (or combination of wastes), which because of its quantity, concentration, physical, or chemical characteristics is identified as a hazardous waste as defined by the Texas Solid Waste Disposal Act, V.T.C.S. Article 4477, or the Administrator, U.S. Environmental Protection Agency (EPA) pursuant to the Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, or as defined in 40 CFR 261.

**Indirect discharge:** The discharge or the introduction of pollutants from any non-domestic source regulated under subsection 307(b), (c) or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharge into the system).

**Industrial holding tank waste:** Any waste from holding tanks such as vessels, septic tanks, and/or vacuum pump tanks trucks, generated from an industrial user.

Industrial User. An industry that discharges wastewater into the wastewater system.

**Industrial Waste:** Waste resulting from any process of industry, manufacturing, trade or business from the development of any natural resource, or any mixture of such waste with water or normal wastewater, or distinct from normal domestic wastewater. By definition, industrial waste also includes restaurant operations and other food processing operations.

**INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT:** THE MAXIMUM CONCENTRATION OF A POLLUTANT ALLOWED TO BE DISCHARGED AT ANY TIME, DETERMINED FROM THE ANALYSIS OF ANY DISCRETE OR COMPOSITED SAMPLE COLLECTED, INDEPENDENT OF THE INDUSTRIAL FLOW RATE AND THE DURATION OF THE SAMPLING EVENT.

**Interference:** A discharge which, alone or in conjunction with a discharge or discharges from

other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operation, or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the POTW's TPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent to state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) [including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA) ], and including state regulations contained in any state sludge management prepared pursuant to Subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act.

**Liquid waste:** All waste (and wastewater) removed for traps and tanks including, but not limited to, grease trap waste, sand and grit trap waste, and septage.

**Liquid waste generator:** A person who causes, creates, generates, or otherwise produces liquid waste.

**Liquid waste transporter:** A person who operates a vehicle for the purpose of transporting liquid waste.

*May* is permissive or discretionary.

**Maximum daily discharge limitation:** The highest allowable daily discharge.

**McAllen Public Utility:** The control authority for the Industrial Pretreatment Program

**MILLIGRAMS PER LITER (MG/L):** SAME AS PARTS PER MILLION AND IS A WEIGHT-TO-VOLUME RATIO; THE MILLIGRAMS PER LITER VALUE MULTIPLIED BY THE FACTOR 8.34 SHALL BE EQUIVALENT TO POUNDS PER MILLION GALLONS OF WATER.

**MEDICAL WASTE:** ISOLATION WASTES, INFECTIOUS AGENTS, HUMAN BLOOD AND BLOOD PRODUCTS, PATHOLOGICAL WASTES, SHARPS, BODY PARTS, CONTAMINATED BEDDING, SURGICAL WASTES, POTENTIALLY CONTAMINATED LABORATORY WASTES, AND DIALYSIS WASTES.

**MONTHLY AVERAGE LIMIT:** THE HIGHEST ALLOWABLE AVERAGE OF "DAILY DISCHARGES" OVER A CALENDAR MONTH, CALCULATED AS THE SUM OF ALL "DAILY DISCHARGES" MEASURED DURING A CALENDAR MONTH DIVIDED BY THE NUMBER OF "DAILY DISCHARGES" MEASURED DURING THAT MONTH.

**National categorical pretreatment standard or pretreatment standard:** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with subsection 307 (b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

**National pollutant discharge elimination system or NPDES permit:** A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

**NATIONAL PROHIBITIVE DISCHARGE STANDARD OR PROHIBITIVE STANDARD:** ANY REGULATION DEVELOPED UNDER THE AUTHORITY OF SECTION 307(B) OF THE ACT AND 40 CFR 3.5.

**NATURAL OUTLET:** ANY OUTLET INTO A WATERCOURSE, DITCH, LAKE, OR OTHER BODY OF SURFACE WATER OR GROUNDWATER.

**NEW SOURCE:** ANY BUILDING, STRUCTURE, FACILITY, OR INSTALLATION FROM WHICH THERE IS (OR MAY BE) A DISCHARGE OF POLLUTANTS, THE CONSTRUCTION OF WHICH COMMENCED AFTER THE PUBLICATION OF PROPOSED PRETREATMENT STANDARDS UNDER SECTION 307(C) OF THE ACT WHICH WILL BE APPLICABLE TO SUCH SOURCE IF SUCH STANDARDS ARE THEREAFTER PROMULGATED IN ACCORDANCE WITH THAT SECTION, PROVIDED THAT THE CONSTRUCTION MEETS THE DEFINITION OF 40 CFR 403.3 (M).

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

**Normal Operations of the Industry:** Hours per week that an industry operates its facility.

**Normal domestic wastewater (sewage):** WASTEWATER EXCLUDING INDUSTRIAL WASTEWATER DISCHARGED BY A PERSON INTO SANITARY SEWER AND IN WHICH THE AVERAGE CONCENTRATION OF TOTAL SUSPENDED SOLIDS AND FIVE-DAY BOD DOES NOT EXCEED 200 MG/L EACH.

**Overload:** The imposition of organic or hydraulic load on a treatment facility in excess of its engineered design capacity.

**Pass through:** A discharge which exits the POTW into waters of the United States or of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Control Authority's TPDES permit including an increase in the magnitude or duration of a violation.

**Person:** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state and local

governmental entities.

**POLLUTANT:** DREDGED SPOIL, SOLID WASTE, INCINERATOR RESIDUE, FILTER BACKWASH, SEWAGE, GARBAGE, SEWAGE SLUDGE, MUNITIONS, MEDICAL WASTES, CHEMICAL WASTES, BIOLOGICAL MATERIALS, RADIOACTIVE MATERIALS, HEAT, WRECKED OR DISCARDED EQUIPMENT, ROCK, SAND, CELLAR DIRT, MUNICIPAL, AGRICULTURAL AND INDUSTRIAL WASTES, AND CERTAIN CHARACTERISTICS OF WASTEWATER (E.G., PH, TEMPERATURE, TSS, TURBIDITY, COLOR, BOD, COD, TOXICITY, OR ODOR).

**PRETREATMENT:** THE REDUCTION OF THE AMOUNT OF POLLUTANTS, THE ELIMINATION OF POLLUTANTS, OR THE ALTERATION OF THE NATURE OF POLLUTANT PROPERTIES IN WASTEWATER PRIOR TO, OR IN LIEU OF, INTRODUCING SUCH POLLUTANTS INTO THE POTW. THIS REDUCTION OR ALTERATION CAN BE OBTAINED BY PHYSICAL, CHEMICAL, OR BIOLOGICAL PROCESSES; BY PROCESS CHANGES; OR BY OTHER MEANS, EXCEPT BY DILUTING THE CONCENTRATION OF THE POLLUTANTS UNLESS ALLOWED BY AN APPLICABLE PRETREATMENT STANDARD.

**Pretreatment Supervisor:** An employee of the City of McAllen, McAllen Public Utility Wastewater Systems designated by the Director of Wastewater Systems to coordinate the pretreatment program.

**Pollution:** The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

**Publicly Owned Treatment Works or POTW:** A “treatment works,” as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the City and/or the Control Authority. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

**Pretreatment requirements:** Any substantive or procedural requirement related to pretreatment standard imposed on an industrial user, OTHER THAN A PRETREATMENT STANDARD..

**Pretreatment standards:** Pretreatment shall mean prohibitive discharge standards, categorical standards, and local limits.

**PROCESS WATER:** ANY WATER WHICH, DURING MANUFACTURING OR PROCESSING, COMES INTO DIRECT CONTACT WITH OR RESULTS FROM THE PRODUCTION OR USE OF ANY RAW MATERIAL, INTERMEDIATE PRODUCT, FINISHED PRODUCT, BY-PRODUCT, OR WASTE PRODUCT.

**Prohibited Discharge Standards or Prohibited Discharges:** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 106-182 (A) of City of McAllen ordinance.

**Publicly Owned Treatment Works or POTW:** A “treatment works,” as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the City and/or the Control Authority. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

**Public sewer:** Pipe or conduit carrying wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the City.

**Sanitary sewer:** 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.

**SEPTIC TANK WASTE:** ANY SEWAGE FROM HOLDING TANKS SUCH AS VESSELS, CHEMICAL TOILETS, CAMPERS, TRAILERS, AND SEPTIC TANKS.

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

**Shall:** is mandatory; May is permissive.

**Significant Industrial User:**

*a. A USER SUBJECT TO NATIONAL CATEGORICAL PRETREATMENT STANDARDS BY THE UNITED STATES EPA; OR*

*b. A USER THAT:*

- 1) **DISCHARGES AN AVERAGE OF TWENTY-FIVE THOUSAND (25,000) GPD OR MORE OF PROCESS WASTEWATER TO THE POTW (EXCLUDING SANITARY, NONCONTACT COOLING, AND BOILER BLOWDOWN WASTEWATER);**
- 2) **CONTRIBUTES A PROCESS WASTESTREAM WHICH MAKES UP FIVE (5) PERCENT OR MORE OF THE AVERAGE DRY WEATHER HYDRAULIC OR ORGANIC CAPACITY OF THE POTW; OR**
- 3) **IS DESIGNATED AS SUCH BY THE CONTROL AUTHORITY ON THE BASIS THAT IT HAS A REASONABLE POTENTIAL FOR ADVERSELY AFFECTING THE POTW'S OPERATION OR FOR VIOLATING ANY PRETREATMENT STANDARD**

**OR REQUIREMENT.**

- c. ***UPON A FINDING THAT A USER MEETING THE CRITERIA IN SUBSECTION (B) HAS NO REASONABLE POTENTIAL FOR ADVERSELY AFFECTING THE POTW'S OPERATION OR FOR VIOLATING ANY PRETREATMENT STANDARD OR REQUIREMENT, THE CONTROL AUTHORITY MAY AT ANY TIME, ON ITS OWN INITIATIVE OR IN RESPONSE TO A PETITION RECEIVED FROM A USER, AND IN ACCORDANCE WITH PROCEDURES IN 40 CFR 403.8(F)(6), DETERMINE THAT SUCH USER SHOULD NOT BE CONSIDERED A SIGNIFICANT INDUSTRIAL USER.***

**Septage:** Wastes removed from a septic tank.

**Slug load or Slug:** ANY DISCHARGE OF A NON-ROUTINE, EPISODIC NATURE, INCLUDING BUT NOT LIMITED TO AN ACCIDENTAL SPILL OR A NON-CUSTOMARY BATCH DISCHARGE, WHICH HAS A REASONABLE POTENTIAL TO CAUSE INTERFERENCE OR PASS THROUGH, OR IN ANY OTHER WAY VIOLATE THE POTW'S REGULATIONS, LOCAL LIMITS OR PERMIT CONDITIONS.

**Standard industrial classification (SIC Code):** A CLASSIFICATION PURSUANT TO THE STANDARD INDUSTRIAL CLASSIFICATION MANUAL ISSUED BY THE UNITED STATES OFFICE OF MANAGEMENT AND BUDGET.

**State:** The State of Texas.

**Storm sewer:** A public sewer which carries storm and surface waters and drainage and into which domestic wastewater or industrial wastes ARE NOT INTENTIONALLY PASSED. .

**Stormwater:** ANY FLOW OCCURRING DURING OR FOLLOWING ANY FORM OF NATURAL PRECIPITATION, AND RESULTING FROM SUCH PRECIPITATION, INCLUDING SNOWMELT.

**SUBSTANTIAL CHANGE IN WASTEWATER DISCHARGE:** A 20 PERCENT OR GREATER INCREASE OR DECREASE IN THE VOLUME OF WASTEWATER DISCHARGED OR IN THE QUALITY AND CHARACTER OF POLLUTANTS DISCHARGED AS A RESULT OF CHANGES IN THE INDUSTRIAL PROCESSES WHICH GENERATE THE WASTEWATER

**Total suspended solids (TSS):** A MEASURE OF THE SUSPENDED SOLIDS IN WASTEWATER, EFFLUENT, OR WATER BODIES, DETERMINED BY TESTS FOR "TOTAL SUSPENDED NON-FILTERABLE SOLIDS.

**TOTAL TOXIC ORGANICS OR TTO:** THE SUM OF THE MASSES OR CONCENTRATION OF SPECIFIC TOXIC ORGANIC COMPOUNDS FOUND IN INDUSTRIAL USERS' DISCHARGE AT A CONCENTRATION GREATER THAN 0.01 MG/L. FOR NON-CATEGORICAL AND CATEGORICAL SIU'S THE TTO LIST IS 40 CFR 122 APPENDIX D, TABLE 2, UNLESS SPECIFICALLY DESIGNATED IN A PARTICULAR CATEGORICAL CLASSIFICATION.

**Trap:** A device designed to skim, settle, or otherwise remove grease, oil, sand, flammable wastes or other harmful substances.

**UNPOLLUTED:** WATER WHICH DOES NOT CONTAIN FREE OR EMULSIFIED GREASE OR OIL; ACIDS OR ALKALIS; PHENOLS OR OTHER SUBSTANCES PRODUCING TASTE OR ODOR IN RECEIVING WATER; TOXIC OR POISONOUS SUBSTANCES IN SUSPENSION; COLLOIDAL STATE OR SOLUTION; NOXIOUS OR OTHERWISE OBNOXIOUS OR ODOROUS GASES; MORE THAN AN INSIGNIFICANT AMOUNT IN MG/L EACH OF TOTAL SUSPENDED SOLIDS AND BOD, AS DETERMINED BY THE STATE WATER COMMISSION; OR COLOR EXCEEDING 50 UNITS AS MEASURED BY THE PLATINUM-COBALT METHOD OF DETERMINATION AS SPECIFIED IN STANDARD METHODS.

**TCEQ Permit:** A permit issued by the Texas Natural Resource Conservation Commission for the discharge of treated wastewater pursuant to the Texas Water Code.

**Vehicle:** A mobile device in which or by which waste may be transported upon a public street or highway.

**User:** Any person who discharges, causes or permits the contribution of wastewater into the city's POTW.

**Waste:** Rejected, unutilized or superfluous substances in liquid, gaseous, or solid form resulting from domestic, agricultural, commercial or industrial activities.

**Wastewater:** The liquid and water-carried industrial or domestic waste from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is discharged into or permitted to enter the POTW.

### **Sec. 30-40. Abbreviations.**

The following abbreviations shall have the designated meanings:

BOD	- Biochemical oxygen demand
CFR	- Code of federal regulations
COD	- Chemical oxygen demand
EPA	- Environmental protection agency
l	- Liter
mg	- Milligrams
mg/l	- Milligrams per liter
ml	- Milliliters
TPDES	- Texas pollutant discharge elimination system
POTW	- Publicly owned treatment works
SIC	- Standard industrial classification

SWDA	- Solid waste disposal act, 42 U.S.C. 6901, et seq.
TCEQ	- Texas Commission on Environmental Quality
TWC	- Texas Water Development Commission
TWDB	- Texas Water Development Board
TDH	- Texas Department of Health
TSS	- Total suspended solids
USC	- United States Code

**Sec. 30-41. General discharge prohibitions.**

No user shall discharge any wastewater or industrial waste which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

**Sec. 30-42. Specific discharge prohibitions.**

1. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
  - a. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21
  - b. *Wastewater having a pH less than 5.0 or more than 11.0, or otherwise causing corrosive structural damage to the POTW or equipment;*
  - c. *Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, blockage, or damage to the POTW.*
  - d. *Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;*
  - e. *Wastewater having a temperature greater than 150°F (65°C), or which*

*will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);*

- f. *Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;*
- g. *Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;*
- h. *Trucked or hauled pollutants, except at discharge points designated by the Control Authority in accordance with Section 106-183 (D) of this ordinance;*
- i. *Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;*
- j. *Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the applicable TPDES permit;*
- k. *Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;*
- l. *Unpolluted storm water, surface water, groundwater, roof run-off, subsurface drainage, unpolluted cooling water, unpolluted industrial process waters or any other unpolluted drainage. In compliance with the*

*state water quality act and other statutes, the Control Authority may designate storm sewers and other watercourses into which unpolluted drainage as described in this subsection may be discharged.*

- m. *Sludges, screenings, or other residues from the pretreatment of industrial wastes;*
- n. *Medical wastes, except as specifically authorized by the Control Authority in a wastewater discharge permit;*
- o. *Wastewater causing, alone or in conjunction with other sources, the POTW's effluent to fail a toxicity test;*
- p. *Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;*
- q. *Free or emulsified fats, wastes, greases or oils in excess of 100 mg/L, or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65°C). An oil and grease concentration of 500 mg/L is allowable for non-significant industrial and commercial users, such as restaurants, and for industrial user outfalls that are dedicated solely to cafeteria usage, provided the Control Authority determines that the waste:*
  - 1) **Derives from animal or vegetable materials**
  - 2) **Biodegrades readily in the treatment plant**
  - 3) **Does not obstruct or limit sewer flow; and**
  - 4) **Is pretreated by an approved trap or other pretreatment device. Where any operation necessitates such discharges, traps shall be provided. Any person responsible for any discharge requiring a trap shall, at his own expense and as**

required by the Control Authority:

- a) Provide equipment and facilities of a type and capacity approved by the Control Authority.
  - b) Locate the trap in a manner that provides ready and easy accessibility for cleaning and inspection.
  - c) Maintain the trap in an effective operating condition.
  - d) Pay the city for any cost incurred by the city as a result of damage to the POTW because of neglect or malfunction of the trap facility.
- r. *Discharges into the sanitary sewer which cause blockage, overflow, or interference, or which exceed discharge limitations;*
- s. *Fungicides, insecticides or herbicides;*
- t. *Polychlorinated biphenyls;*
- u. *Hydrogen sulfide, sulfur dioxide or nitrous oxide in excess of 10 parts per million;*
- v. *Garbage that is not properly shredded to such an extent that all particles will be carried freely under the flow conditions normally prevailing in wastewater mains, with no particle having greater than one-half (1/2") inch cross-sectional dimension;*
- w. *Wastewater or industrial waste generated or produced outside the City, unless approval in writing from the Control Authority has been given to the person discharging the waste;*
- x. *Without the approval of the Control Authority, a substance or pollutant other than industrial waste, normal domestic wastewater, septic tank waste or chemical toilet waste that is of a toxic or hazardous nature,*

***regardless of whether or not it is amenable to treatment, including but not limited to bulk or packaged chemical products;***

y. ***Vandalism. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW;***

z. ***Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.***

#### A. National Categorical Pretreatment Standards

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

1. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the General Manager may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
2. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the General Manager shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e), unless the industrial user establishes a dedicated upstream monitoring point, where assessment of the categorical discharge can be made directly.
3. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
4. A user may obtain a net gross adjustment to a categorical standard in accordance with

40 CFR 403.15.

B. Reserved

C. Local Limits

The following pollutant limits are established to protect against pass through and interference. No person shall discharge or cause or permit to be discharged, wastewater containing in excess of the following discharge limits.

**Sec. 30-43. Specific pollutant limitations- Local limits.**

1 Metals in the form of compounds or elements with total concentrations exceeding the following:

<b>Pollutant</b>	<b>Discharge Limit (mg/L)</b>
Arsenic	0.51
Cadmium	0.42
Chromium	9.24
Copper	2.88
Cyanide	0.39
Lead	4.30
Mercury	0.0002
Nickel	2.32
Selenium	0.10
Silver	0.77
Zinc	3.14

2. These limits represent a maximum daily discharge for constituents in the form of compounds or elements, in solution or suspension. These limits are based upon a method of allocating pollutant loadings which has been approved by the EPA and incorporated into the city's approved pretreatment program. No discharge into the

city's sewer system may contain concentrations greater than these limits. These limits apply at a point where the industrial user's waste enters the city sewer. Unless otherwise specified by the Control Authority, compliance with these limits will be assessed by the collection and analysis of a 24-hour composite sample of the wastewater discharge.

3. Permit compliance/non-compliance determinations will be based on the minimum analytical level (MAL) for toxic organic and inorganic parameters. Where permit limits are  $>$  MAL, compliance is assessed at the permit limit. Where permit limits are  $<$  MAL, effluent concentrations measured as less than the MAL are deemed to be compliant with the permit limitations. When an analysis of an effluent sample results in a measurement of less than the MAL, that parameter shall be reported as " $<$ (MAL Value)" and this shall be interpreted as a value of zero for compliance purposes. For reference:

Selenium MAL = 0.010 mg/L (10 ppb).

Mercury MAL = 0.0002 mg/L (0.2 ppb).

The Mercury MAL shown will apply irrespective of the mercury method used.

4. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The General Manager may impose mass limitations in addition to, or in place of, the concentration-based limitations above.
5. The concentration limits as contained in this subsection may be changed upon approval of the Control Authority and with the notification to all applicable users. Notification may be accomplished by publication if so required by state, federal or other applicable agency rules, regulation and orders, including but not limited to the Texas Water Commission Board Rule No. 70-0828-5 regulating the discharge of hazardous metals into or adjacent to state waters. Notwithstanding the provision of requirement of notification by the Control Authority, it is the user's responsibility to monitor all state and federal regulatory authorities having jurisdiction over the discharge of wastewaters by any user of the POTW.

#### A. City's Right of Revision

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

#### B. Dilution

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Control Authority may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

### **Sec. 30-44. Federal categorical pretreatment standards; State requirements.**

1. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under the article. While the control authority shall notify all affected users of the applicable reporting requirements under 40 CFR, 403.12, all users are expected to keep themselves apprised of current local, state and federal laws.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements or limitations or those in this article.

#### 2. PRETREATMENT OF WASTEWATER

##### A. Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 106-182 (A) of the City of McAllen ordinance within the time limitations specified by EPA, the State, or the Control Authority, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the General Manager for review, and shall be acceptable to the General Manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of

modifying such facilities as necessary to produce a discharge acceptable to the POTW under the provisions of this ordinance.

B. Additional Pretreatment Measures

1. Whenever deemed necessary, the General Manager may require users to restrict their discharge during peak flow periods and require any other such conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
2. The General Manager may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow, if such condition is necessary to protect the POTW. A wastewater discharge permit may be issued solely for flow equalization.
3. Grease, oil, and sand interceptors shall be provided when, in the opinion of the General Manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the General Manager 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 the user at their expense.
4. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter, or other control device as deemed necessary by the General Manager.
5. Interference with Grease Traps, Grit Trap, or Sanitary Sewer - A person commits an offense if the person causes or permits the plugging or blocking of, or otherwise interferes with or permits the interference of a grease trap, grit trap, or the sanitary

sewer.

6. Bioremediation of Grease Traps - Use of grease trap treatment products, including bacteria, designed to digest the grease, is prohibited without written consent of the Control Authority. Guidance regarding requirements for use of such agents is provided in the City of McAllen “Guidance Document for Sizing and Installation of Grease Traps and Interceptors.”

#### C. Hauled Wastewater

1. Septic tank waste may be introduced into the POTW only at locations designated by the General Manager, and at such times as are established by the General Manager. Such waste shall not violate Section 106-182 of the City of McAllen ordinance or any other requirements established by the Control Authority. The General Manager may require septic tank waste haulers to obtain wastewater discharge permits.
2. Septic tank waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of generator, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

#### D. Grease Traps, Holding Tanks, Grit Traps, and Septic Tanks

A person commits an offense if the person causes or permits the plugging or blocking of, or otherwise interferes with or permits the interference of a grease trap, grit trap, or the sanitary sewer. Maintenance, record keeping, spill reporting, and related requirements for Grease Traps and Interceptors are defined in the City of McAllen “Guidance Document for Sizing and Installation of Grease Traps and Interceptors.” Users are to follow the requirements of that document, unless otherwise authorized by the General Manager.

E. Reserved

F. Previously Issued Permits

All permits issued by the General Manager to septic tank waste haulers pursuant to the predecessor of this Article shall remain valid until their expiration or until their revocation pursuant to the ordinance under which they were issued.

**Sec. 30-45. Excessive discharge.**

No user shall ever increase the use of process or nonprocessed water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment in order to achieve compliance with the standards set forth in this article.

**Sec. 30-46. Slug loadings and accidental discharges.**

Slug Control Plans

At least once every two (2) years, the General Manager shall evaluate whether each permitted significant industrial user needs a slug control plan as required by 40 CFR 403.8 (2) (vi). The General Manager may require any user to develop, submit for approval, and implement such a plan. A slug control plan shall address, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges;
2. Description of stored chemicals;

Procedures for immediately notifying the General Manager of any slug discharge, as required by Section 106-186 (G) of the City of McAllen ordinance; and Procedures to prevent adverse impact from any slug discharge. Such procedures may include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

**Notification by user.** In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Control Authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

1. Within five (5) days following such discharge, the user shall, unless waived by the General Manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
2. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge as described in paragraph 1, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

**Sec. 30-47. Hazardous wastes.**

Users that generate hazardous wastes shall comply with all regulations of the EPA, the state water commission and the state department of health.

Users generating hazardous wastes shall maintain records of the types and quantities of wastes generated, name of the transporter and site of disposal. These records shall be made available for inspection by the Control Authority at any reasonable time. Transporters transporting hazardous wastes must have the applicable state department of health or state water commission permit and

use the appropriate manifest system. The Control Authority shall be allowed to inspect vehicles for proper operation, registration and manifest.

### **DIVISION 3. ADMINISTRATION BY PERMIT AND APPROVAL**

#### **Sec. 30-48. WASTEWATER DISCHARGE PERMIT APPLICATION**

##### **A. Wastewater Analysis**

When requested by the General Manager, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Control Authority has promulgated a sewer quality questionnaire form for this purpose and may periodically require users to update this information.

##### **B. Wastewater Discharge Permit Requirement**

1. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the General Manager, except that a significant industrial user that has filed a timely application pursuant to Section 106-184 (C) of the City of McAllen ordinance may continue to discharge for the time period specified therein.
2. The General Manager may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance. If any user discharges or proposes to discharge to the POTW any waste which would be in violation of this ordinance, or should any pretreatment be required of any categorical users under the provisions of the act or by regulations of the EPA, then any such person shall be required to obtain a waste discharge permit. The Control Authority may grant to such

user a permit wherein such permit and the requirements therein is an acceptable condition for discharge of any waste into the POTW. Unless the Control Authority shall approve any discharge according to a waste discharge permit, any waste which does not meet the criteria of this division shall be rejected by the Control Authority for discharge into the POTW and such discharge shall constitute a violation of this ordinance.

3. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 106-190 through 106-191 of the City of McAllen 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 with any other requirements of Federal, State, and local law.

#### C. Wastewater Discharge Permitting: Existing Connections

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the General Manager for a wastewater discharge permit in accordance with Section 106-184 (E) of the City of McAllen ordinance, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the General Manager. If, in the General Manager's judgment, the passing of the Ordinance does not significantly affect the Industrial User's current permit, then the existing permit will continue through to the expiration date. If the user has filed a timely and complete application, and the General Manager has not issued a renewed permit or notified the user of its decision to deny the application, then the user's permit shall continue in effect after expiration, until a permit decision is rendered by the General Manager.

#### D. Wastewater Discharge Permitting: New Connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 106-184 (E) of the City of McAllen ordinance, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

#### E. Wastewater Discharge Permit Application Contents

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

1. All information required by Section 106-186 (B)(2) of the City of McAllen ordinance;
2. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
3. Number and type of employees, hours of operation, and proposed or actual hours of operation;
4. Each product produced by type, amount, process or processes, and rate of production;
5. Type and amount of raw materials processed (average and maximum per day);
6. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, all points of discharge, and all sampling locations for monitoring all wastes covered by the permit;
7. Time and duration of discharges;

8. The design and installation of equipment and processes which conform to all applicable statutes, codes, ordinances and other laws included in the plans and specifications for the pretreatment facilities as required by the Control Authority;
9. An agreement by the user that such user shall be responsible for maintenance of the facilities in operating condition at the user's sole expense; that the user shall pay all charges and surcharges applicable to pretreatment or the treatment of waste by the city; and that the user will comply with all the reporting requirements of the city;
10. Any and all further information and/or requirements as promulgated by the General Manager relating thereto Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

#### F. Application Signatories and Certification

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

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

#### G. Wastewater Discharge Permit Decisions

The General Manager will evaluate the data furnished by the user and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application, the General Manager will determine whether or not to issue a wastewater discharge permit. If the user has filed a timely and complete application, and the General Manager has not issued a renewed permit or notified the user of its decision to deny the application, then the user's permit shall continue in effect after expiration, until a permit decision is rendered by the

General Manager. The General Manager may deny or condition an application for new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by Industrial Users where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause the POTW to violate its NPDES permit. Any person aggrieved by the decision of the General Manager may appeal such decision within fifteen business days of the notice by the General Manager of any action taken. A hearing on the appeal shall be conducted by the City Manager and notice shall be issued by the City Manager to the aggrieved party of the time and place for such hearing, which shall not be earlier than two days from the date of such notice. After the hearing, the City Manager shall issue an opinion relating to the action taken by the General Manager and appeal there from, which decision shall be made in writing and delivered to the aggrieved party and the General Manager within ten days after the date of the hearing. Such decision of the City Manager shall be final. The aggrieved party may appeal the decision of the City Manager to the district court of the county within 15 days from the date of receipt of the decision of the City Manager. Any such appeal to the district court shall be determined by the substantial evidence rule.

## **Sec. 30-49. WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS**

### **A. Wastewater Discharge Permit Duration**

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

### **B. Wastewater Discharge Permit Contents**

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the General Manager 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. Wastewater discharge permits must contain:**

- a. ***A statement that indicates wastewater discharge permit issuance date, effective date and the duration, which in no event shall exceed five (5)***

*years;*

- b. *A statement that the wastewater discharge permit is nontransferable without prior notification to the Control Authority in accordance with Section 106-185 (E) of the City of McAllen ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;*
  - c. *Effluent limits based on applicable pretreatment standards;*
  - d. *Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and*
  - e. *A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.*
2. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
- a. *Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;*
  - b. *Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;*
  - c. *Requirements for the development and implementation of spill control*

*plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges. The review of such plans and operating procedures and the issuance of the waste discharge permit will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Control Authority under the provisions of this ordinance.*

- d. *Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;*
- e. *The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;*
- f. *Requirements for installation and maintenance of inspection and sampling facilities and equipment;*
- g. *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;*
- h. *Compliance schedules;*
- i. *Other conditions as deemed appropriate by the General Manager to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.*

C. Reserved.

D. Wastewater Discharge Permit Modification

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

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 POTW, POTW personnel, or 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. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
8. To correct typographical or other errors in the wastewater discharge permit; or
9. To reflect a transfer of the facility ownership or operation to a new owner or operator.

The existing permit holder shall be informed of any proposed changes in the permit at least thirty (30) days prior to the effective date of the requirement of any such change.

E. Wastewater Discharge Permit Transfer

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

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

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

F. Wastewater Discharge Permit Revocation

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

1. Failure to notify the General Manager of significant changes to the wastewater prior to the changed discharge;
2. Failure to provide prior notification to the General Manager of changed conditions pursuant to Section 106-186 (F) of the City of McAllen ordinance;
3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
4. Falsifying self-monitoring reports and certification statements in accordance with 40

CFR §403.8 (f)(1)(vi)(B);

5. Tampering with monitoring equipment;
6. Refusing to allow the Control Authority's timely access to the facility premises and records;
7. Failure to meet effluent limitations;
8. Failure to pay fines;
9. Failure to pay sewer charges;
10. Failure to meet compliance schedules;
11. Failure to complete a wastewater survey or the wastewater discharge permit application;
12. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
13. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

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

#### G. Wastewater Discharge Permit Reissuance

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 106-184 (E) of the City of McAllen ordinance, a minimum of ninety (90) days

prior to the expiration of the user's existing wastewater discharge permit.

#### H. Regulation of Waste Received from Other Jurisdictions

1. If another municipality, or user located within another municipality, contributes wastewater to the POTW, General Manager shall enter into an inter-municipal agreement with the contributing municipality.
2. Prior to entering into an agreement, the General Manager shall request the following information from the contributing municipality:
  - a. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
  - b. An inventory of all users located within the contributing municipality that are discharging to the POTW; and
  - c. Such other information as the General Manager may deem necessary.
3. An inter-municipal agreement, as required by paragraph 1, above, shall contain the following conditions:
  - a. A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in Section 106.182 (D) of the City of McAllen ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City of McAllen's ordinance or local limits;
  - b. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
  - c. A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the General Manager; and which of these activities will be conducted jointly by the contributing municipality and the General Manager;
  - d. A requirement for the contributing municipality to provide the General Manager

with access to all information that the contributing municipality obtains as part of its pretreatment activities;

- e. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- f. Requirements for monitoring the contributing municipality's discharge;
- g. A provision ensuring the General Manager access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the General Manager; and
- h. A provision specifying remedies available for breach of the terms of the inter-municipal agreement.

**Sec. 30-50. Liquid waste transporter permit requirements.**

***(a) Permit application deadlines.***

- (1) Existing liquid waste transporters shall apply within ninety (90) days of the effective date of this article; and
- (2) Any liquid waste transporters desiring to operate within the city's CCN after the effective date of this article; at least ninety (90) days prior to commencement of discharge to the control authority.

***(b) Permit application.*** Any person transporting waste shall:

- (1) Submit an application on a form provided by the control authority and provide such information as it may request.
- (2) Submit, for inspection by the control authority, each vehicle the applicant proposes to use to transport liquid waste. Each vehicle shall be constructed, equipped and identified in accordance with the following provisions:
  - a. Business name and permit number in three (3) inch high or larger letters, prominently displayed on both sides of the vehicle.
  - b. Vehicle shall be clean and odor-free.
  - c. Vehicle shall be equipped for safe operation, and comply with regulatory agencies.
  - d. Vehicle shall have a single tank as an integral portion of the vehicle to

transport wastes. Portable tanks or other containers temporarily installed in the vehicles are prohibited.

- e. Piping, valves and connectors shall be permanently attached to the tank and/or vehicle, accessible and easy to clean.
- f. Tank shall be constructed so that every interior and exterior portion can be easily cleaned.
- g. Inlets or openings of tank to be constructed so that collected waste will not spill, run, or leak during filling, transfer, or transport.
- h. Outlet shall be of a design and type suitable for the waste handled and capable of controlling flow or discharge without spillage or spray or flooding of immediate surroundings, while in use.
- i. Pumps, valves, cylinders, diaphragms, and other appurtenances shall be of a design and type suitable for the type of waste handled, capable of operation without spillage, spray, or leakage, and capable of being easily disassembled for cleaning.

- (3) Submit with the application, a photocopy of the driver's license of the manager, insurance verification, and TCEQ permit(s)/registration, as required.

(c) **Permit conditions.** Permit conditions shall include, but not be limited to:

- (1) Before the vehicle is operated in the city's CCN, the permit holder shall display the vehicle permit number on each side of each vehicle in a color contrasting with the background color in a three (3) inches high or larger letters.
- (2) A permit to transport nonhazardous waste issued by the control authority, prohibits the hauling of hazardous waste and the commingling of hazardous waste with nonhazardous waste.
- (3) The control authority shall be notified of management changes during the permit period and shall be provided a copy of the new manager's valid drivers license.
- (4) Transporter shall remove the entire contents of tanks and traps.
- (5) Disposal of nonhazardous wastes shall not be made to grease traps, grit traps, septic tanks of the sanitary sewer without prior knowledge and written approval by the control authority.
- (6) Transporters shall immediately notify the control authority of any additional disposal sites used during the permit period.
- (7) Transporter shall maintain hoses, tanks, valves, pumps, cylinders, diaphragms, pipes connections, and other appurtenances on a vehicle in good repair and free from

leaks.

- (8) Provide a safety plug, or cap, for each valve of a tank.
- (9) Cause a vehicle exterior to be clean and the vehicle odor-free at the end of each work day.
- (10) If transporting portable chemical toilet waste, the transporter shall report monthly to the control authority, the total volume of waste transported and all utilized disposal sites for said waste during the month.

(d) **Manifest system.** A four (4) part manifest system shall be used to document the generation, transportation, and disposal of liquid waste in the city as follows:

- (1) The trip ticket books are purchased by the transporter from the control authority for a fee as established in section 30-61.
- (2) The transporter shall complete one (1) trip for each location serviced.
- (3) The first copy of the trip ticket must be signed by the transporter and liquid waste generator at the time of waste removal, and the second copy must be left with the liquid waste generator for his files.
- (4) The first copy of the trip ticket signed by the disposer at the time of disposal, and third copy must be maintained by the disposer.
- (5) The first and four the copy of the trip ticket must have signatures of the transporter, liquid waste generator and disposer. The first copy must be returned to the liquid waste generator within ten (10) working days, and the fourth copy must be left at the disposal site.
- (6) A copy of all trip tickets shall be maintained for a period of two (2) years.

### **Sec. 30-51. Permit modifications.**

Permits may be modified by the general manager, agent for the utility board of trustees, upon thirty (30) calendar days notice to the permittee, for just cause. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. Reasons for permit modifications may include, but not limited to, the following:

- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- (2) Material or substantial alterations or additions to the discharger's operation which

were not covered in the effective permit;

- (3) A change in any condition 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 control authority's collection and treatment systems, POTW personnel, or the receiving water;
- (5) Violation of any terms or conditions of this permit;
- (6) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting;
- (7) A revision of or a grant of variance from such categorical standards pursuant to 40 CFR 403.13;
- (8). To correct typographical or other errors in the permit;
- (9) To reflect transfer of the facility ownership and/or operation to a new owner/operator; or
- (10) At request of the permittee, provided such request does not create a violation of any applicable requirements standards, laws, or rules and regulations.

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

### **Sec. 30-52. General permit conditions.**

All permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the control authority. Permits shall contain, at a minimum, the following conditions:

- (1) Statement of duration.
- (2) Statement of nontransferability, unless approved as required by subsection 30-53(b) below.
- (3) Effluent limits based on applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, and state and local law;

- (4) Self-monitoring, sampling, reporting, notification and record keeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, and state and local laws;
- (5) 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 compliance date beyond applicable federal deadlines.
- (6) Other conditions as deemed appropriate by the general manager to ensure compliance with this article, and state and federal laws, rules, and regulations.

**Sec. 30-53. Permit issuance.**

(a) **Permit duration.** Permits are issued for a specified time period not to exceed five (5) years.

(b) **Permit transfer.** Permits are issued to a specific user for a specific operation, or discharge at a specific location. A permit shall not be reassigned, transferred, or sold to a new owner, operator, different premises, or a new or changed operation without prior approval of the general manager, obtained under the following procedure:

- (1) Permittees wishing to transfer their permits must give at least thirty (30) calendar days advance notice to the general manager; and
- (2) The notice must include a written certification by the new owner which:
  - a. States that the new owner has no immediate intent to change the facility's operations and processes;
  - b. Identifies specific data on which the transfer is to occur; and
  - c. Acknowledges full responsibility for complying with the existing permit.
- (3) The general manager, agent for the utility board of trustees, within ten (10) working days of receiving the permit transfer request, will respond to the parties in writing. In the event the general manager denies the request, the new owner/operator must submit a permit application in accordance with subsection 30-49(b) above.

**Sec. 30-54. Permit appeals.**

Any person who is directly affected by an action of the control authority in the issuance or denial of a permit under Division 3 of this article, may appeal the control authority's action to the

wastewater system utility board of trustees. The appellant must file a written notice of appeal with the general manager of the wastewater system within fifteen (15) calendar days of the action which is being appealed. The written notice must contain the name, mailing address, street address and phone number of the appellant, and must also contain a reasonably detailed statement regarding the action complained of, who took the action, what the appellant contends was wrong with the action, and what relief is being sought.

Within fifteen (15) calendar days of receipt of the written notice, the wastewater system's utility board of trustees must notify the appellant of the date of a hearing to hear the appeal. The wastewater system's utility board of trustees may itself conduct the hearing, or may designate any three (3) of its members to conduct the hearing and make recommendation to the full utility board of trustees.

The hearing shall be conducted according to the procedure in Division 5 of this article, unless otherwise agreed in writing by the appellant and the utility board of trustees. The decision of the utility board of trustees shall be made and given to the appellant in writing within ten (10) calendar days of the hearing. The appellant has the right to appeal the decision of the utility board of trustees, to the city commission by filing written notice with the city manager within fifteen (15) calendar days of receipt of the utility board of trustee's decision. The decision of the utility board of trustees will be reversed only upon a vote of at least four (4) in favor of reversal, as required by the city charter.

#### **Sec. 30-55. Permit reissuance.**

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

#### **Sec. 30-56. Continuation of expired permits.**

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

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

#### **Sec. 30-57. REPORTING REQUIREMENTS**

##### **A. Preliminary Reporting Requirements**

1. Any industrial user, categorical user or significant industrial user of the POTW shall be required within 30 days of request from the Control Authority to answer and reply

to a sewer quality questionnaire form as promulgated by the General Manager. The purposes of the requirement for the form shall be to determine the quality of the sewer effluent being discharged from any such user into the POTW for determination of compliance with the provisions of this ordinance or for a determination of whether pretreatment approval should be requested from the Control Authority.

2. Should any user fail to reply in a satisfactory fashion to the questionnaire, such failure to respond shall be considered a violation of the provisions of this ordinance and subject any such person to the enforcement provisions of this ordinance. The request to answer such questionnaire shall be evidenced by the deposit of such questionnaire to the user at its billing address as shown on the records of the public utility.
3. In addition to the enforcement provisions as provided for in this division, the Control Authority, upon failure of any user to satisfactorily answer the questionnaire as provided in this section, may cause the waste being discharged from such user to be tested and the costs therefore shall then be payable by the user to the city. Should such user fail to pay such costs upon 30 days' notice from the city, this shall be considered as a failure to pay a city utility bill and utility service may be cut off by the city upon the failure to make such payment.

## B. Baseline Monitoring Reports

1. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the General Manager a report which contains the information listed in paragraph 2, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that will become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the General Manager a report which contains the information listed in paragraph 2, below.
2. Users described above shall submit the information set forth below.
  - a. ***Identifying Information. The name and address of the facility, including the name of the operator and owner.***
  - b. ***Environmental Permits. A list of any environmental control permits held by or for the facility.***
  - c. ***Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.***
  - d. ***Flow Measurement. Information showing the measured or estimated average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams. If combined wastestream formula applies, provide sufficient information to allow combined wastestream formula to be determined set out in 40 CFR***

**403.6(e). New sources must estimate flows.**

e. **Measurement of Pollutants.**

- 1) **The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.**
- 2) **The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the General Manager, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 106-186 (K) of the City of McAllen ordinance. The frequency of monitoring for the reports of this section shall be prescribed in the applicable pretreatment standard. New sources must estimate concentrations.**
- 3) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- 4) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards.

Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the General Manager.

- 5) The General Manager may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

- 6) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.
  - 7) **Sampling must be performed in accordance with procedures set out in Section 106-186 (K) (analytical methods) and 106-186 (L) (sample collection) of the City of McAllen ordinance.**
- f. **Certification.** *A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.*
- g. **Compliance Schedule.** *If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 106-186 (C) of the City of McAllen ordinance.*
- h. **Signature and Certification.** *All baseline monitoring reports must be signed and certified in accordance with Section 106-184 (F) of the City of McAllen ordinance.*

### C. Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 106-186 (B)(2)(g) of the City of McAllen ordinance:

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
2. No increment referred to above shall exceed nine (9) months;
3. The user shall submit a progress report to the General Manager no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
4. In no event shall more than nine (9) months elapse between such progress reports to the General Manager.

### D. Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards established in 40 CFR Part 403.6(b), or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the General Manager a report containing the concentration and flow information described in Section 106-186 (B) (d-e) of the City of McAllen ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in

40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 106-184 (F) of the City of McAllen ordinance.

#### E. Periodic Compliance Reports

1. All significant industrial users subject to national categorical pretreatment standards, and other users as identified by the General Manager shall during the months of June and December, unless required more frequently by the General Manager, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period. At the discretion of the General Manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the General Manager may agree to alter the months during which reports under this subsection are to be submitted.

At the General Manager's discretion, sampling and analysis may be performed by the Control Authority in lieu of industrial monitoring. All periodic compliance reports must be signed and certified in accordance with Section 106-184 (F) of the City of McAllen ordinance.

2. The General Manager may impose mass limitations on users which are using dilution, if otherwise allowable, to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by Section 106-186 (E) (1) of the City of McAllen ordinance section shall indicate the mass of pollutants regulated by national categorical pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature

and concentration, or production and mass where requested by the General Manager, of pollutants contained therein which are limited by the applicable national categorical pretreatment standards

3. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
4. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the General Manager, using the procedures prescribed in Section 106-186 (K) (analytical methods) and 106-186 (L) (sample collection) of the City of McAllen ordinance, the results of this monitoring shall be included in the report.

#### F. Reports of Changed Conditions

Each user must notify the General Manager of any planned substantial change in the volume or character of pollution in their discharges at least thirty (30) days before the change.

1. The General Manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 106-184 (E) of the City of McAllen ordinance.
2. The General Manager will determine whether a new permit, a revision of an existing permit, or no permit change is required in response to the changed condition.

#### G. Reports of Potential Problems

1. In the case of any discharge, including, but not limited to, accidental discharges,

- discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Control Authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
2. Within five (5) days following such discharge, the user shall, unless waived by the General Manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
  3. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge as described in paragraph 1, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

#### H. Reports from Unpermitted Users

1. Any industrial user of the POTW shall be required within 30 days of request from the General Manager to answer and reply to a sewer quality questionnaire form as promulgated by the Control Authority. The purposes of the requirement for the form shall be to determine the quality of the sewer effluent being discharged from any such user into the POTW for determination of compliance with the provisions of this division or for a determination of whether pretreatment approval should be requested from the General Manager.
2. Should any user fail to reply in a satisfactory fashion to the questionnaire, such failure to respond shall be considered a violation of the provisions of this division and

subject any such person to the enforcement provisions of this division. The request to answer such questionnaire from the General Manager shall be evidenced by the deposit of such questionnaire to the user at its billing address as shown on the records of the public utility.

3. In addition to the enforcement provisions as provided for in this division, the General Manager, upon failure of any user to satisfactorily answer the questionnaire as provided in this section, may cause the waste being discharged from such user to be tested and the costs therefore shall then be payable by the user to the city. Should such user fail to pay such costs upon 30 days' notice from the city, this shall be considered as a failure to pay a city utility bill and utility service may be cut off by the city upon the failure to make such payment.

I. Notice of Violation/Repeat Sampling and Reporting

Pursuant to 40 CFR, Part 403.12 (g) (2), if sampling performed by a user indicates a violation, the user must notify the Control Authority within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within thirty (30) days after becoming aware of the violation, unless the Control Authority informs the user otherwise. The user is not required to resample if the Control Authority monitors at the user's facility at least once a month, or if the Control Authority samples between the user's initial sampling and when the user receives the results of this sampling.

Where the Control Authority has performed the sampling and analysis in lieu of the Industrial User, the Control Authority must perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat analysis. Re-sampling is not required if:

- a. The Control Authority performs sampling at the Industrial User at a frequency of at least once per month; or

- b. The Control Authority performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Control Authority receives the results of this sampling.

J. Notification of the Discharge of Hazardous Waste

1. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). The notification must take place no later than 180 days after the discharge and in accordance with other requirements in 40 CFR 403.12 (p).
2. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

K. Analytical Requirements

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

L. Sample Collection

Samples collected to satisfy reporting requirements must be based on data obtained

through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

1. Except as indicated in Section 2 and 3 below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the General Manager. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.
2. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
3. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 106-186 (B) and 106-186 (D) of the City of McAllen Ordinance and [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the General Manager may authorize a lower minimum. For the reports required by paragraphs Section 106-186 (E) of the City of McAllen ordinance and (40 CFR 403.12(e) and 403.12(h)), the Industrial User

is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

M. Timing

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

N. Record Keeping

Industrial users subject to the reporting requirements of City of McAllen Ordinance Section (106-186) shall retain these reports and the information resulting from any required monitoring activities for a minimum of three years. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available to the Control Authority for a period of at least three (3) years, for inspection and copying. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the Control Authority.

**DIVISION 4. FEES AND CHARGES**

**Sec. 30-58. Purpose.**

It is the purpose of this article to provide for the recovery of the cost for users of the control authority's POTW and for the implementation of the program established herein. The applicable charges or fees shall be set forth in the schedule of fees promulgated by the control authority.

Sec. 30-59. Pretreatment Charges and Fees

Service Fees

*The City of McAllen reserves the right and/or may charge fees to industrial/commercial users for services rendered in administering the programs in this division. The fees shall be established by minute order of the public utility board, from time to time, and shall compensate the city*

*for activities such as issuing permits, inspecting facilities, sampling and analyzing wastewater, and conducting enforcement actions. Fees required under this section shall be billed to the user by the City of McAllen, McAllen Public Utility and shall be payable as indicated on the bill.*

*If the volume or character of the waste to be treated by the city requires that the POTW be improved, expanded or enlarged in order to treat the waste, then, prior to approval, the city and the user shall enter into an agreement which provides that the user pay in full all added costs the city may incur due to acceptance of the waste. The agreement shall include but not be limited to:*

**Amortization of all capital outlay for collecting and treating the waste, including new capital outlay and the proportionate part of the value of the existing system used in handling and treating the waste; and**

**Operation and maintenance costs, including salaries and wages, power costs, costs of chemicals and supplies, proper allowances for maintenance, depreciation, overhead, and office expense.**

#### BOD and TSS Surcharges

*Water or wastes having 1) a five day biochemical oxygen demand greater than two hundred (200) mg/L or 2) containing more than two hundred (200) mg/L of total suspended solids shall be subject to the review and approval of the General Manager. Where the General Manager has approved the admission of (1) or (2) above into the POTW, that discharge may be subject to a surcharge as determined by the Control Authority. In no case shall a discharge be accepted that will prevent the POTW from meeting its limits.*

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

(BOD results mg/L - 200 mg/L) x \$ (A) x Discharge (MG) x 8.34 = (x) BOD Subtotal

(TSS results mg/L - 200 mg/L) x \$ (B) x Discharge (MG) x 8.34 = (y) TSS Subtotal

Total Sewer Surcharge = (x) + (y)

Where:

8.34 = weight in pounds of one gallon of water

(A) = unit cost of treatment per pound of BOD

(B) = unit cost of treatment per pound of TSS

(x) = amount (\$) of total sewer surcharge due to BOD content

(y) = amount (\$) of total sewer surcharge due to TSS content

Discharge = million gallons (MG) of flow

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

#### Severability

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

#### Transportation and Disposal of Waste

1. No person shall vacuum, flush or service tanks or traps which contain liquid wastes or portable chemical toilet wastes for the purpose of transporting such waste to a site of disposal unless approval has been granted by the Control Authority. Prior to any operation in the city, all persons desiring to commercially transport such wastes shall obtain a permit from the Control Authority. The application for a permit shall require such information as the General Manager deems reasonably necessary. The city may

charge a fee as set by the board of commissioners from time to time for the purposes of permit applications. The permit shall be valid for a period of one year and shall be renewed by the applicant at least 30 days prior to the date of expiration. Any permit issued under this section shall be nontransferable and shall be issued to the person or entity originally applying therefore. The permit may contain limitations as to routes, equipment, inspection and insurance requirements, and other health-related matters.

2. In addition to the application for a permit to transport liquid wastes in the city, the person requesting such permit shall submit for inspection each vehicle the applicant proposes to use to transport liquid wastes. Each vehicle shall be constructed, equipped and identified in accordance with the following provisions:

***The business name of the operator must be in letters of three inches or higher and permanently displayed on both sides of the vehicle;***

***Each vehicle shall have the necessary tanks, pumps, valves, cylinders, diaphragms and other appurtenances which shall be of a design and type suitable and maintained in a condition to safely operate without spillage, spray or leakage.***

3. Transporters of liquid wastes shall use a disposal site approved by the state water commission and by the city. The issuance of a permit does not specifically allow a transporter of liquid wastes to utilize the POTW unless express written permission is obtained by the city. All deliveries to the POTW of any liquid wastes by transfer shall be by permit or written authorization issued by the Control Authority therefore. Hauled liquid wastes for delivery to the Control Authority's POTW shall not contain hazardous waste in any or listed hazardous in combination with other waste.

#### Hazardous Wastes

1. Users that generate hazardous wastes shall comply with all regulations of the EPA,

the state water commission and the state department of health.

2. Users generating hazardous wastes shall maintain records of the types and quantities of wastes generated, name of the transporter and site of disposal. These records shall be made available for inspection by the Control Authority at any reasonable time.
3. Transporters transporting hazardous wastes must have the applicable state department of health or state water commission permit and use the appropriate manifest system. The Control Authority shall be allowed to inspect vehicles for proper operation, registration and manifest.

## **Sec. 30-60. COMPLIANCE MONITORING**

### **A. Monitoring Facilities**

1. The Control Authority shall require monitoring facilities, to be provided and operated at the industrial user's own expense, to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the Control Authority may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
2. There shall be ample room in or near a sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.
3. Whether constructed on public or private property, the sampling and monitoring facilities required by this section shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications.

Construction shall be completed within 90 days following written notification by the Control Authority.

B. Right of Entry: Inspection and Sampling

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

1. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the City of McAllen Control Authority, TCEQ or USEPA will be permitted to enter without delay for the purposes of performing specific responsibilities.
2. The Control Authority shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
3. The Control Authority may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually, at a minimum, to ensure their accuracy.
4. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Control Authority and shall not be replaced. The costs of

clearing such access shall be born by the user.

5. Unreasonable delays in allowing the inspecting or sampling person's access to the user's premises shall be a violation of this ordinance.
6. In accordance with 40 CFR 403.8(f) (2) (v), the Control Authority shall inspect and monitor each permitted significant industrial user a minimum of once per year. If the Control Authority elects to perform compliance monitoring for the industry, then the Control Authority will monitor the industry a minimum of once every 6 months.

#### C. Search Warrants

If the Control Authority has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Control Authority may seek issuance of a search warrant from the appropriate court.

### **Sec. 30-61. CONFIDENTIAL INFORMATION**

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

**the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.**

**Sec. 30-62. Ordinance fees.**

The control authority may elect to print and bind this Ordinance, or chapters thereof, and charge a fee for its distribution. The fee shall be based on development and printing costs to the control authority and may be reviewed annually for adjustments to reflect the true cost to the control authority.

**Sec. 30-63. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE**

The General Manager shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements as required by 40 CFR Part 403.8 (2) (vii). The term significant noncompliance shall mean:

- Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all measurements taken for the same pollutant parameter during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in City of McAllen Ordinance Section 106-182. ;
- Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by City of McAllen Ordinance Section 106-182 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- Any other discharge violation of a Pretreatment Standard or Requirement as defined by City of McAllen Ordinance Section 106-182 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the General Manager 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;
- Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the General Manager 's exercise of its emergency authority to halt or prevent such a discharge;
  - 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;
  - Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
  - Failure to accurately report noncompliance; or

**Any other violation(s) which the General Manager determines will adversely affect the operation or implementation of the local pretreatment program.**

## **Sec. 30-64. ADMINISTRATIVE ENFORCEMENT REMEDIES**

### Notification of Violation

When the General Manager 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 General Manager may serve upon that user a written Notice of Violation. Such notice and order shall state:

1. The nature of the violation and the provisions of this ordinance which have been violated;
2. The corrective action which must be taken and the amount of time allowed to correct the violation.

Within five (5) days of the receipt of this notice, an explanation of the violation and a

plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the General Manager. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the General Manager to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

#### Consent Order

The General Manager may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall 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 Sections 106-190 (D) and 106-190 (E) of the City of McAllen ordinance and shall be judicially enforceable.

#### Show Cause Hearing

The General Manager may order a user which 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, to appear before the General Manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least thirty (30) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

## Administrative Orders

### Compliance Orders

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

### Cease and Desist Orders

When the General Manager 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, or that the user's past violations are likely to recur, the General Manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:

1. Immediately comply with all requirements; and
2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or

terminating the discharge.

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

Reserved

#### Emergency Suspensions

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

1. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the General Manager 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 General Manager may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the General Manager that the period of endangerment has passed, unless the termination proceedings in Section 106-190 (H) of the City of McAllen ordinance are initiated against the user.

2. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the General Manager prior to the date of any show cause or termination hearing under Sections 106-190 (C) or 106-190 (H) of the City of McAllen ordinance.

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

#### Termination of Discharge

**In addition to the provisions in Section 106-185 (F) of the City of McAllen ordinance, the City may immediately terminate wastewater service when such suspension is necessary, in the opinion of the city, to stop an actual or threatened discharge which presents an imminent or substantial endangerment to the health or welfare of persons, to the environment, or to the POTW, or when a user violates permit conditions. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 106-190 (C) of the City of McAllen ordinance why the proposed action should not be taken. Exercise of this option by the General Manager shall not be a bar to, or a prerequisite for, taking any other action against the user.**

### **Sec. 30-65. JUDICIAL ENFORCEMENT REMEDIES**

#### Injunctive Relief

Upon alleged violation of the provisions of this ordinance and by order of the City of McAllen Public Utility Board or the board of commissioners, as applicable, provided however, that should an emergency exist and there not be sufficient time in which to hold an emergency meeting for which a quorum may be present by such boards, then upon order by the General Manager, the City Attorney is hereby directed to institute appropriate action, including request for injunctive relief and civil penalties in the appropriate district court of the county, to prohibit the continued violation of this ordinance, and, if appropriate, to further seek civil or criminal contempt sanctions against any person who has been so enjoined by any such court. It is further provided that the

violation of any provisions of this ordinance relating to waste discharges shall be and is declared a public nuisance for which the city has sufficient legal authority to seek injunction and the remedies set out in this ordinance.

#### Civil Penalties

1. A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of Two Thousand Dollars (\$2,000.00) per violation. Each day that such violation continues shall be a separate offense.
2. The Control Authority 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.
3. 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.
4. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

#### Criminal Prosecution

1. A user who violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than Two Thousand Dollars (\$2,000.00) per violation, per day, or imprisonment as decided

by an appropriate court, or both.

2. A user who introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to the same penalties described in Section 106-191 (A) of the City of McAllen Ordinance. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
3. A user who makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be subject to the same penalties described in Section 106-191 (A) of the City of McAllen Ordinance.
4. Criminal Responsibility. A person is criminally responsible for a violation of this Ordinance if the person negligently, knowingly, or willfully commits or assists in the commission of a violation, or causes or permits another person to commit a violation.

#### Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Control Authority may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City enforcement response plan. However, the Control Authority may take other action against any user when the circumstances warrant. Further, the Control Authority is empowered to take more than one enforcement action against any noncompliant user.

#### Applicability of More Stringent Regulations

1. If national pretreatment standards, categorical or otherwise, more stringent than the

discharge limits prescribed in this article are promulgated by the EPA for certain industries, the more stringent national pretreatment standards will apply to the affected industrial user. A violation of the more stringent national pretreatment standards will also be considered a violation of this Ordinance.

2. If more stringent pretreatment standards, Texas surface water quality standards, or TPDES permit conditions are promulgated, the City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.
3. Variances in compliance dates. The General Manager may grant a variance in compliance dates to an industry when, in the General Manager's opinion, such action is necessary to achieve pretreatment or corrective measures. In no case shall the General Manager grant a variance in compliance dates to an industry affected by national categorical pretreatment standards beyond the compliance dates established by the EPA.
4. Authority to regulate. The General Manager may establish regulations, not in conflict with this Ordinance or other laws, to control the disposal and discharge of industrial waste into the wastewater system and to insure compliance with the city's pretreatment enforcement program with all applicable pretreatment regulations promulgated by the EPA. The regulations established shall, where applicable, be made part of any discharge permit issued to an industrial user by the General Manager.

**Sec. 30-66. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

Act of God defense

Act of God defense. The Act of God defense constitutes a statutory affirmative defense

[Texas Water Code Section §7.251] in an action brought in municipal or State court. If a person can establish that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of the ordinance or permit.

An industrial user who wishes to establish the Act of God affirmative defense shall demonstrate, through relevant evidence that:

*An event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance occurred, and the sole cause of the event was an act of God, war, strike, riot or other catastrophe; and*

*The industrial user has submitted the following information to the POTW and the City of McAllen within 24 hours of becoming aware of the event that would otherwise be a violation of a pretreatment ordinance or permit issued under the ordinance (if information is provided orally, a written submission must be provided within five days):*

**A description of the event, and the nature and cause of the event;**

**The time period of the event, including exact dates and times or, if still continuing, the anticipated time the event is expected to continue; and Steps being taken or planned to reduce, eliminate and prevent recurrence of the event.**

Burden of proof. In an enforcement, the industrial user seeking to establish the Act of God affirmative defense shall have the burden of proving by a preponderance of the evidence that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was cause solely by an act of God, war, strike, riot or other catastrophe.

## Bypass

1. For the purposes of this section: "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
2. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this section.
3. Notification

***a. Planned Bypass: If a user knows in advance of the need for a bypass, it shall submit prior notice to the General Manager, at least ten (10) days before the date of the bypass, if possible.***

***b. Unanticipated Bypass: A user shall submit oral notice to the General Manager of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The General Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.***

4. Bypass is prohibited, and the General Manager may take an enforcement action against a user for a bypass, unless

***Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;***

*There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and*

*The user submitted notices as required under paragraph (3) of this section.*

5. The General Manager may approve a bypass, after considering its adverse effects, if the General Manager determines it meets the conditions listed in paragraph (4) of this section.

## **ARTICLE IV. WASTEWATER MAINS AND LIFT STATIONS**

### **DIVISION 1. GENERALLY**

#### **Sec. 30-70. Descriptive terms.**

The following words or phrases as used in this Article, shall mean the following:

- (1) **Wastewater system:** The facilities constructed, owned, maintained and otherwise operated by the city in receiving, gathering, transporting, and disposing of wastewater and other forms of liquid sewerage disposed of by various entities within the city; and including but not being limited to sanitary sewer disposal plants, wastewater mains, lift stations and laterals.
- (2) **Utility department:** The department of the city administration portion of the city government headed by the director of utilities and having the administrative responsibility of and being in charge of the installation, subsequent repair and maintenance, and overall operation of the city wastewater system, and fire protection supply system.
- (3) **Waste:** Wastewater and other permissive forms of liquid sewerage deposited into the city wastewater system by various entities within the city.

- (4) **City standards:** The construction standards and specifications as determined, transcribed and recorded in the city utility department, from time to time, for the construction and installation of wastewater mains, lift stations, tap-on laterals, and other facilities of the wastewater system of the city.
- (5) **Wastewater main:** An underground pipeline owned and operated by the city installed on streets, alleys easements or other city rights-of-way, constituting a part of the system owned and operated by the city in receiving, transporting, gathering, treating and disposing of sewerage disposal of various entities within the city ( and not including laterals from such mains extending to and upon the privately owned property of the entity discharging sewerage into such system); any such main transporting sewerage by gravity flow constituting a “gravity main”; and any such main transporting sewerage under pump pressure form a lift station constituting a “pressure main.”
- (6) **Manhole:** An underground structure, usually of masonry construction, forming a “tank type” area or unit connected to gravity wastewater mains and constituting part of the gravity flow transportation portion of the wastewater system, and having a land surface removable cover to a allow entrance and accessibility to the interior of such manhole.
- (7) **Lift station:** A building with pump, electric motor, and other machinery and plumbing installations located upon city streets, alleys, easements and other lawful rights-of-way, constituting a part of the city wastewater system, and designed and operated to receive sanitary sewerage from one or more gravity wastewater mains of the city, and transport such sewerage under pump pressure through other additional wastewater mains (pressure or force mains) of the city wastewater system, to ultimately deliver such sewerage to a sewerage disposal plant of the system.
- (8) **Laterals:** Underground pipelines tapped onto city wastewater gravity mains and extending from such mains to and connecting with private property facilities owned by various entities within the city, and into which the wastewater and other liquid sewerage of such entities is deposited for transportation into such wastewater mains and the city wastewater system.
- (9) **On-site main:** Wastewater mains installed within and upon streets, alleys easements or other dedicated city rights-of-way within new subdivisions for the receiving and transportation of wastewater and other liquid sewerage disposed of by entities within such subdivision.
- (10) **Off-site main:** Wastewater mains of the city installed upon city streets, alleys, easements or other lawful rights-of-ways located outside of the boundaries of new subdivisions and installed and/or used for connecting onto on-site mains within such new subdivisions for the transportation of the wastewater and other liquid

sewerage of such new subdivisions into and through the city wastewater system for ultimate disposal.

- (11) **Oversized main and/or lift station.** Any wastewater main, either on-site, off-site, gravity or pressure; and/or any lift station, either on-site or off-site, required by the city to be installed by new subdivision developer of sufficient size to receive, gather, transport and dispose of the wastewater and other liquid sewerage contemplated to be discharged by such new subdivision.
- (12) **Standard size main, lift station, other facilities:** All wastewater mains, lift stations and other facilities, if any, required by the city to be installed by new subdivision developer of sufficient size to receive, gather, transport and dispose of the wastewater and other liquid sewerage contemplated to be discharged by such new subdivision.
- (13) **Letter of occupancy:** An authorization letter of and from the city utility department to new subdivision developers, with copies thereof to be furnished to the city and/or county franchised public utilities furnishing electric power and service and natural gas to consumers within the city's wastewater CCN, approving the completion of required installations of wastewater facilities to service such new subdivisions, as a prerequisite for human occupancy and use of any improvements constructed in any such new subdivisions, with neither the city or county to allow connection and use of fresh water supply and/or wastewater facilities, nor the franchised electric power and natural gas public utilities to allow connection for and use of electric power and natural gas by any newly constructed improvement or improvements within such subdivision without the city having first issued a letter of occupancy for such new subdivision, as above provided for.
- (14) **Tap fee:** The fee charged any entity within the city for connecting the wastewater and liquid sewerage discharging appliances and facilities of such entity to the city wastewater system by means of a lateral.
- (15) **User fee:** The fee to be charged by the city for tying onto the wastewater system for discharge of wastewater and other liquid sewerage into the wastewater system.
- (16) **Tie-on fee:** The fee to be charged by the city to any third party entity (being any entity other than the city or a developer of a new subdivision who has installed an oversized main or lift station in connection with the development of a new subdivision) for tying onto a preinstalled oversized main or oversized lift station.
- (17) **Fixture:** Any fixture, appliance, plumbing arrangement or other device for receiving and discharging wastewater and other permissible forms of liquid sewerage into the city wastewater system, such as but not limited to commodes, lavatories, sinks, bathtubs, showers, dishwashers, washing machines, floor drains, commercial and industrial waste

drains, etc.

- (18) **New subdivision:** A new subdivision processed by the proposed owner-developer in accordance with the subdivision ordinance of the City of Alton and consisting of one (1) or more lots or blocks.
- (19) **Developer:** The entity authorized and empowered by law ( such as being the holder of the title of the land proposed to be subdivided) to subdivide such real property under the subdivision ordinance.

### **Sec. 30-71. Required installations.**

As a prerequisite for approval by the city of a proposed new subdivision within its wastewater CCN, the developer thereof shall be required to install wastewater mains (either on-site, off-site, standard size, oversize, gravity or pressure), manholes, and/or lift stations (either on-site, off-site, standard size or oversize) within and/or adjacent to such new subdivisions, as specified and required by the utility department, as follows:

- (1) Developers shall, at their expense, prepare and submit to the utility department plans for proposed waste disposal system for proposed new subdivisions. The utility department shall have not less than two (2) weeks from the date of receipt of such original plans to approve same or to request specified additions thereto deletions therefrom or other changes thereto. If revised plans be required, the utility department shall have one week from the date of receipt hereof approval thereof or resubmission to the developer for further required additions deletions or other changes. Such procedure shall continue until such plans and specifications meet final approval of the utility department, prior to awarding of construction contract and/or advertisement for contractors bids, where applicable.
- (2) In the determination of plans and specifications for the installation of such facilities for waste disposal of such new subdivisions, the city shall require facilities at city standards of standard size to service the new subdivision; and the city may require the installation of off-site standard size installation or on site or off-site oversize facilities at city standards in anticipation of future servicing of waste disposal by land areas adjacent to such new subdivisions.
- (3) The utility department may require such plans to provide of the wastewater and other liquid sewerage to be gathered by the intrasubdivision system servicing such new subdivision, to be delivered to an on-site or off-site single location for delivery into the Alton wastewater system for ultimate transportation to a sewerage treatment plant; which such single location for delivery may be a connection to a gravity wastewater main of the overall city system or a lift station; and which such transportation of such wastewater and other liquid sewerage disposed of by such new subdivision, to such single location, may be by on-site or of-site gravity main, or pressure main and supporting lift station; and

which such single location may be an existing adjacent system, or nonadjacent gravity main or lift station.

**Sec. 30-72. Final approval.**

Proposed new subdivisions shall not be finally approved by the city until either:

- (1) Such waste facilities have been, at the option of the developer, first fully installed and completed by the developer and finally approved by the utility department, with proof of payment in full therefor; or
- (2) The developer shall have posted bond with the utility department executed by the developer and a surety corporation as a surety thereon as approved by the city, such bond being in an amount ten (10) per cent in excess of the cost of the installation of such waste facilities as estimated by the utilities department and further conditioned that such facilities shall be installed and fully paid for by the developer in accordance with the plans and specifications of and the final approval of the utility department within two (2) years from the date of the approval of such subdivision plat, failing which the city may install and/or complete the installation of such facilities with the expenses to be incurred by the city to be reimbursed by the principal and/or surety or sureties of such bond, and with the city to have the sole determination as to the method and cost of such installation and/or completion of the installation of such facilities; or
- (3) The developer shall have deposited cash funds or an irrevocable letter of credit from a lending institution acceptable to the city in an amount equal to the cost of such facilities plus ten (10) per cent thereof, as estimated by the utility department; with such cash funds to be deposited in a lending institution of the choice of the city; with such cash funds deposit and/or letter of credit to be subject to and in accordance with written agreement by and between the subdivider, the city and the depository of such funds and/or the issuer of such irrevocable letter of credit, providing for the disbursement of such cash funds, and/or the issuance of cash funds under such irrevocable letter of credit, at times and dates and in amounts as shall be determined by the utility department, from time to time, for payment of the installation of such waste facilities; with such deposit or issuing of irrevocable letter of credit being in connection with written agreement and provisions that in the event the developer fails to continue and complete the installation of such finally approved facilities within two (2) years of the designated beginning date of such installation, the city may, at its sole option, install and/or complete the installation of such facilities, using such deposited cash funds, or the remainder thereof, or necessary funds to be issued from such irrevocable letter of credit, for the payment therefor, with surplus, if any, of such deposited cash funds to be refunded to developer upon completion of the installation of such facilities as finally approved by the utility department.

**Sec. 30-73. Construction procedure.**

- (a) The installation of standard size waste facilities for new subdivisions may be by a contractor selected by the developer, to be approved by the utility department, or by contractor selected from competitive bid procedure. The installation of oversized facilities shall be submitted for competitive bid by the developer and the city, jointly, with the awarding of contract for the construction thereof to be in accordance with the statutes of the State of Texas and the Charter and ordinances of the City of Alton; provided however, that the city shall have no liability for the original payment for the construction of such facilities by the constructing contractors upon the completion of such construction pursuant to contract or contracts for such construction, and the city shall not be a signatory party to such contract or contracts; provided further, however, that such construction shall nevertheless be subject to progress inspection by the utility department.
  
- (b) All contractors for construction of either standard or oversized facilities shall furnish a performance bond and payment bond executed by the contractor as principal; and a corporate surety, approved by the city, authorized to do business in Hidalgo County, having an agent upon whom service of citation may be had in Hidalgo County; such bond being in an amount equal to the total construction cost and such bond being issuable and answerable to the city and the developer, jointly and severally, and shall be conditioned upon:
  - (1) Completion of all of such construction in full conformity and compliance with the plans and specifications as previously approved by the utility department; as evidenced by final inspection thereof and such indicated approval by the utility department.
  - (2) Payment in full by the contractor of all claims for labor performed, materials furnished and other expenses incurred in such construction.
  - (3) Maintenance of such construction by the contractor for a period of ninety (90) calendar days after acceptance thereof by the utility department.
  - (4) Repair and/or replacement by the contractor of all defects or failures of such installations for one year after the completion of such construction and final inspection and approval date of the utility department, resulting from faulty, defective or other improper construction.
  
- (c) The installation of such waste facilities shall be subject to periodic approval inspection by the utility department at and under reasonable times and conditions, including aforesaid final inspection. Such “work-in-progress” approval inspections shall be rescheduled by the utility department and contractors so as to

provide for prior inspection by the utility department of underground or otherwise concealed installations prior to covering and/or concealment.

- (d) Upon final approval by the utility department of such completed construction, the utility department shall issue its letter of occupancy to the developer, with duplicate executed original thereof to be furnished by the utility department to the city or county building inspection department and city or county-franchised electric light and power and natural gas utility companies, as appropriate.
- (e) Neither the building inspection department nor any other agency of the city or county shall authorize connection of fresh water supply facilities, wastewater supply facilities, electric light and power facilities to improvements constructed in such new subdivision without such letter of occupancy having been so executed and filed. Provided however, that the provisions of this subsection shall not apply to temporary fresh water supply, electric power and/or gas connections to city facilities and/or franchised public utilities for the purpose of supplying fresh water, electric power and/or gas required for the construction and installation of such new subdivision facilities.

**Sec. 30-74. Provisions for payment.**

- (a) The developers shall timely pay the total cost and expenses incurred in the construction and installation of the required facilities to service the new subdivision, including on-site, standard size and oversized facilities.
- (b) Should the payment by the developer under subsection (a) include payment for oversized main or mains and/or oversized lift station or lift stations required by the utility department the developer shall be reimbursed by the city a portion of the cost of such oversized main or mains in accordance with Table 1 following this section; and the developer shall be reimbursed by the city for the portion of the cost of the oversized lift station and the estimated cost of a lift station of sufficient size only to service the maximum estimated waste water and other liquid sewerage disposal of such new subdivision. Such reimbursable amounts shall be paid by the city to the developer in five (5) equal annual installments with one each due and payable on the successive anniversary dates of the issuance of the letter of occupancy by the utility department for such installations. Interest on the reimbursable amount shall be calculated as the one year treasury bill discount rate, less two (2) per cent and not to exceed ten (10) per cent. The interest rate shall be adjusted semiannually commencing on the date six (6) months from the date of payment by the developer of oversizing and on the anniversary date of such payment. Such reimbursable amounts shall be payable by the city to the developer regardless of the subsequent tie-on to and use of such oversized facilities by other and additional users. Such unconditionally reimbursable amount as provided for in this section may be reimbursed to the developer sooner than by the aforementioned five (5)

equal annual installments, in the event the utility department collects tie-on fees from tie-ons to such oversized mains and/or lifts stations, under the provisions of section 30-75(2) below.

**TABLE 1**  
**OVERSIZE MAIN**  
**REIMBURSEMENT SCHEDULE**

Size of main adequate to serve developers land (inches)	Main size required by city (inches)	Percentage of total cost of required oversized main, to be refunded to developer
8	10	10
	12	21
	15	45
	18	56
	21	67
	24	74
10	12	13
	15	40
	18	51
	21	63
	24	71
12	15	31
	18	44
	21	58
	24	67
	27	73
	30	77

Sec. 30-75. Fee for tying on to previously installed oversized main and/or oversized lift station.

The utility department may allow newly proposed subdivisions and/or wastewater disposing facilities of other entities to tie on to preinstalled oversized gravity mains and/or oversized lift stations, when such properties are adjacent to or in the serviceable area of such oversized gravity mains and/or lift stations, under the following conditions.

- (1) Newly proposed subdivisions and other entities requiring city wastewater service may be allowed, by the utility department to tie on to previously installed oversized gravity mains and/or oversized lift stations, when such newly proposed subdivisions or other entities are located adjacent to or in the area contemplated to be service by such preinstalled oversized mains and/or lift stations, and under conditions of the utility department having predetermined that such proposed new subdivision or subdivisions or other entities may be adequately serviced by such preinstalled, oversized mains and/or lift stations. The utility department shall determine, by best estimate, the maximum amount of wastewater discharge required to be serviced for such proposed new subdivision and further determine the percentage the same constitutes of the maximum handling capacity of such oversized gravity main and/or lift station. This percentage shall then be multiplied by the cost of installation of such lift station and the cost of installation of that point of tie-on and such lift station and/or down flow terminal point of such oversized gravity main, and the total of such resulting products shall constitute the tie-on fee.
- (2) Permit for such tie-on shall be granted by the utility department upon its satisfactory determination of the foregoing and upon payment to the city of such tie-on fee. Such tie-on fee shall be in addition to tap fee or fees and/or user fee or fees as hereinafter provided for.

**Sec. 30-76. Conditional reimbursement to developer for porion of the original cost of oversized mains and/or lift stations.**

(a) The utility department shall make its best estimate of the maximum amount of wastewater disposal required to be handled by the subdivision originally installing such oversized gravity main and/or lift station. The utility department shall then determine that percentage of the maximum carrying capacity of such oversized gravity main and/or lift station which will be required to process such maximum estimated amount of wastewater disposal by such original subdivision. This percentage figure shall then be multiplied by the total original cost of the installation of such oversized gravity main and/or lift station by the developer installing same, and such figure or amount shall be the fixed cost of the portion of such oversized main and/or lift station attributable to such original subdivision installing same, which such amount will not be refunded to the developer. Such fixed cost amount shall then be subtracted form the total original cost of such oversized gravity mains or lift stations, and the remainder shall agin be reduced go the amount to be unconditionally reimbursed to the installing developer under provisions of Section 30-74(b) above. The remaining amount shall be the amount subject to conditional reimbursement to the installing developer (conditional reimbursable amount).

(b) In the event the utility department collects tie-on fees from tie-on to such oversized gravity mains and/or lift stations. Under the provisions of Section 30-75 above, it shall disburse form such collected tie-on fees amounts to the developer originally installing such oversized mains and/or lift stations as follows:

- (1) An amount up to but not exceeding one hundred (100) per cent of the predetermined conditional reimbursable amount, if sufficient amount for such sources is available during the first four (4) years after the original installation of such oversized mains and/or lift stations;
- (2) In the event, and only in the event, less than sixty-six and two-thirds (66 2/3) per cent of the predetermined conditional reimbursable amount has been reimbursed to the developer during such first four (4) years, such additional amount as is required to result in reimbursement to such developer of a total of sixty-six and two-thirds (66 2/3) per cent of the predetermined conditional reimbursable amount shall be reimbursed to the developer during the fifth through the eighth years the original installation of such oversized mains and/or lift stations, if sufficient amount from such sources becomes available during such fifth through eighth years;
- (3) In the event and only in the event less than thirty-three and one-third (33 1/3) percent of the predetermined conditional reimbursable amount has been reimbursed to the developer during the first through eighth years after the original installation of such oversized mains and/or lift stations, such additional amount as is required to result in reimbursement to such developer of a total of thirty-three and one-third (33 1/3) per cent of the predetermined conditional reimbursable amount shall be reimbursed to such developer during the into and tenth years after the original installation of such oversized mains and/or lift stations, if sufficient amount from such sources becomes available during such ninth and tenth years.

The reduction of amount to be reimbursed for such conditional reimbursable amount during the fifth through eighth years, and/or during the ninth and/or tenth years after installation, is based upon the intervening deterioration and/or lift stations during such later years, with the utility department to retain any surplus unreimbursed amounts, as a result of such later years; reductions, for replacement and/or repair costs to such oversized mains and/or lift stations caused form such depreciation and deterioration.

## **DIVISION 2. STANDARD TAP FEE AND WASTEWATER CAPITAL FACILITIES CHARGES**

### **Sec. 30-82. Tap fees**

Each entity tying on to a city wastewater main for the direct disposal of the wastewater and other permissible liquid sewerage of such entity into the city wastewater system, with such tap-on being by means of lateral form the premises of such entity to such wastewater main, installed by a licensed plumber, shall, to obtain tap permit, pay a tap fee to the utility department calculated as follows:

- (1) For four-inch diameter size lateral tap line, a fee of two hundred dollars (\$200.00) plus a thirty-five dollar (\$35.00) inspection fee; provided, that in the event that the length of such lateral line exceeds twenty-five (25) feet from the city wastewater main to the property line of such tapping entity, an additional fee of two dollars (\$2.00) per lineal foot for each foot in excess of twenty-five (25) feet; and provided further, that in the event the depth of the city wastewater main at the point of tap requires that lateral line to be installed at a depth in excess of six (6) feet below ground level, there shall be an additional depth of such tap line below six (6) feet. There shall be an additional tap fee of one dollar and twenty-five cents (\$1.25) per lineal foot of each foot of lateral tap line for each foot of additional depth of such tap line below six (6) feet.
  
- (2) For a six-inch diameter size lateral tap line, a fee of two hundred and fifty dollars (\$250.00) plus a thirty-five dollar (\$35.00) inspection fee; provided, that in the event that the length of such lateral line exceeds twenty-five (25) feet from the city wastewater main to the property line of such tapping entity, an additional charge of two dollars (\$2.00) per lineal foot for each foot in excess of twenty-five (25) feet shall be made; and provided further that in the event the depth of the city wastewater main at the point of tap requires the lateral line to be installed at a depth in excess of six (6) feet below ground level, there shall be an additional tap fee of one dollar and twenty-five cents (\$1.25) per lineal foot of each foot of lateral tap line for each foot of additional depth of such tap line below six (6) feet.
  
- (3) The utility department shall have sole discretion in determining whether or not the tapping entity shall require a four-inch diameter size lateral tap line, or a six-inch diameter size lateral tap line, or a six-inch diameter size lateral tap line, or a tap line with a larger diameter than six (6) inches. In the event a lateral tap line with a diameter in excess of six (6) inches is required by the utility department, the entity making such lateral connection to the city wastewater main shall pay the actual cost incurred by the utility department in making and installing such tap from the city's wastewater gravity main to the property line of such tapping entity. Such expenses shall be solely determined by the city but shall be fair and reasonable, and commensurate with prevailing municipal wages and other construction and installation costs.

**Sec. 30-83. Wastewater capital facilities charge.**

Each developer or builder shall pay to the Alton Sewer system, prior to the issuance of a building permit for new construction, a wastewater capital facilities charge for each such building permit. Each new connection to the wastewater system in areas in which the developer has not paid a wastewater capital facilities charge shall pay the appropriate wastewater capital facilities charge prior to the installation of a water meter. Records of payment of the wastewater capital facilities

charge shall be maintained by the Alton Wastewater System and shall be the sole basis of determining prior payment of the wastewater capital facilities charge. This charge is to be used to reimburse developers for oversizing or constructing sewer mains or lines as well as the repair, maintenance and modernization of existing wastewater facilities used by such new development to be served. The charge shall be calculated and assessed in the following manner:

- (1) *Capital facilities charges for single-family dwellings.* Single-family dwellings shall be charged a wastewater capital facilities charge of two hundred dollars (\$200.00).
- (2) *Capital facilities charges for multifamily complexes.* Duplexes, triplexes and quadruplexes shall be charged a wastewater capital facilities charge of one hundred seventy dollars (\$170.00) per dwelling unit.
- (3) *Capital facilities charges for apartments, hotels, motels and mobile homes.* Apartments, hotels, motels and mobile homes in approved mobile home parks shall be charged a waste water capital facilities charge of one hundred ten dollars (\$110.00) per dwelling or room unit or mobile home lot. Additionally, where laundries, cooking facilities, swimming pools, common areas or like facilities are to be served by identifiable internal water service lines, each such facility shall be assessed a wastewater capital facilities charge equal to that applicable for a water meter one size smaller than the service line used to serve such facility. The charges shall be those contained in subsection 30-83(4) below.
- (4) *Capital facilities charges for nonresidential development.* Nonresidential development shall pay a wastewater capital facility charge as follows:

Water Meter Size (inches)	Wastewater Capital Facilities Charge
5/8 X 3/4.....	\$275.00
1.....	960.00
1 1/2.....	2,750.00
2.....	4,125.00

Capital facility charges for water meters larger than two (2) inches shall be determined on an individual basis.

- (5) *Capital facilities charges for existing facilities.* When it can be shown that the installation of a second water meter is for the measurement of water not returned to the wastewater system, the wastewater capital facilities charge for a second water meter shall not be required.

- (6) *Reduction in water meter size.* A customer desiring a reduction in the water meter size shall not be refunded any monies paid for wastewater capital facilities charges.
- (7) *Capital facilities charges for replacement facilities.* Capital facilities charges for “replacement facilities” shall to be charged except to the extent of an increased demand on the system. All services to the old facility must be disconnected within sixty (60) calendar days of the start-up of operation of the new facility:
- a. When the new facility’s demand on the sewer system (based on water meter(s) size) is greater than the old facility, the new facility will be charged a capital facility fee.
  - b. When the new facility’s demand on the sewer system (based) on water meters(s) size) is greater than the old facility, the new facility will be charged a capital facility fee based on the difference between the total volume generated by the larger meters(s) and the smaller meter(s).

**Sec. 30-84. Special out-of-CCN fees.**

The tap fees provided for in section 30-83 and the wastewater capital facilities charges shall be one-hundred twenty-five (125) percent when made for entities located outside of the city wastewater CCN limits but within the extraterritorial jurisdiction area of the city. Provided further, that in the event any entity paying such increased amount fees should be annexed by the city within three (3) years form the date of the payment of such fees, a portion thereof shall be refunded as follows: fifty (50) per cent of the difference thereof if annexation occurs within one year form the date of original payment and connection; thirty-seven and one-half (37 1/2) per cent of the difference thereof if annexation occurs after one year but within two (2) years of the date of such connection and payment; and twenty (20) per cent of the difference thereof if annexation occurs after two (2) years but within three (3) years of such date of connection and payment.

**Secs. 30-85-30-89. Reserved.**

**DIVISION 3. PROVISIONS FOR EXTENSIONS**

**Sec. 30-90. Application of division 1.**

All of the provisions of division 1 of this Article shall apply to entities other than developers of new subdivisions seeking connections to and service form the city wastewater system, as such provisions shall apply to such other entities, and exclusive of special provisions applicable to he approval of subdivision plats for newly proposed subdivisions.

**Secs. 30-91--30-95. Reserved.**

**DIVISION 4. SERVICE TO EXTRA TERRITORIAL  
JURISDICTION AREAS**

**Sec. 30-96. Option by city.**

The city shall have the sole option of agreeing to extending city wastewater system services to entities, including proposed new subdivisions, located outside the city wastewater CCN limits but within the city extraterritorial jurisdiction area. In the event of the agreement by the city to extend such wastewater system service to such extraterritorial areas, all of the provisions of this Article shall apply as stated.

**Secs. 30-97--30-101. Reserved.**

**DIVISION 5. ESTABLISHMENT OF REIMBURSEMENT, REPAIR AND  
REPLACEMENT FUND**

**Sec. 30-102. Use.**

The funds collected by the city form the payment of tie-on fees as provided for in section 30-75(1) and form the payment of wastewater capital facilities charges as provided for in section 30-83 shall be maintained in a separate and specially designated utility department account; and such funds shall be used only to reimburse the subdivision developer who originally installed and paid for such oversized mains and lifts stations (for which such tie-on fee was paid by subsequent tie-ons), as such reimbursement provisions are provided for in section 30-76, with the remainder to be and lifts stations of the wastewater system used by said new development.

**Secs. 30-103--30-107. Reserved.**

**DIVISION 6. FINAL CONTROL**

**Sec. 30-108. Exercised by appointed commission.**

Any of the decisions of or other action by the director of utilities or utility department as herein provided for shall be subject to prior review and approval by the appointed Board of trustees, as it may specify from time to time; and/or subject to after-the-fact review, change and overruling or amendment by the elective Board of Alderman from time to time.

**Sec. 30-109. Reserved.**

**ARTICLE V. EXTENSION OF FIRE PROTECTION  
WATER MAINS AND SERVICE**

**DIVISION 1. GENERALLY**

**Sec. 30-110. Descriptive terms.**

The following words or phrases, as used in this article, shall mean the following:

*Apartment* shall mean two (2) or more buildings constructed on a single parcel of property where most buildings contain at least two (2) living units or one or more buildings constructed on a single parcel of property where each building contains at least five (5) living units.

*Dwelling* shall mean a house, mobile home, apartment or building used primarily for human habitation. The word dwelling shall not include hotels, motels, tourist courts or other accommodations for transients, nor shall it include dormitories, fraternities, sororities, rooming houses, business or industrial facilities.

- (1) *Single-family* shall mean a building containing not more than one living unit on one or more lots. Mobile homes not in approved mobile home parks are considered single-family dwellings.
- (2) *Single-family attached* shall mean single-family dwelling units constructed in such a manner that the units share a common wall and lot line with another unit. Duplexes, triplexes and quadruplexes shall be considered single-family attached housing units.
- (3) *Duplex* shall mean a single building containing two (2) living units, constructed on one or more lots.
- (4) *Triplex* shall mean a single building containing three (3) living units constructed on one or more lots.
- (5) *Quadruplex* shall mean a single building containing four (4) living units constructed on one or more lots.

*Fire Protection water distribution system* shall mean the system of fire protection water mains used to deliver fire protection services to customers. It includes large size lines that may normally be called transmission lines.

*Front footage charge* shall mean a fixed charge per front foot of property or lot owned by a single customer or developer to which water service is made available. This charge recovers a proportionate share of the fire protection water system cost to serve customers.

*Hotel* shall mean a building designed to provide accommodations for transients or persons for short time residence, with or without meals. A hotel shall have ten (10) or more sleeping rooms including the customary accessory facilities. Sleeping rooms shall have no provisions for cooking.

*Inspection charge* shall mean a fee charged to a customer or developer to recover the cost of inspecting the installation of water and/or waste water lines.

*Letter of occupancy* shall mean an authorization letter of and from the wastewater and fire protection system to new subdivision developers, with copies thereof to be furnished to the city or county franchised public utilities, as appropriate, furnishing electric power and natural gas to consumers within the city, approving the completion of required installations of wastewater facilities to serve such new subdivisions, as a prerequisite for human occupancy and use of any improvements constructed in any such new subdivision, with neither the city to allow connection and use of the potable water supply and/or wastewater facilities, nor the franchised electric power and natural gas public utilities to allow connections for and use of electric power and natural gas by any new constructed improvement or improvements within such subdivisions without the wastewater and fire protection system having first issued a letter of occupancy for such new subdivision, as above provided for.

*Mobile home park (approved)* shall mean a parcel of property zoned under provisions of the applicable city or county zoning regulations whose allowed and recognized use is the business of renting spaces or lots upon which mobile homes are placed and occupied as single-family dwellings and shall include and associated and allowed laundry and recreational and common facilities incidental thereto.

*Motel* shall include the term “motel hotel,” “tourist court,” “transient accommodations,” primarily for those persons traveling by automotive vehicles and consisting of two (2) or more units or buildings designed to provide sleeping accommodations and with customary accessory uses.

*New subdivision* shall mean a new subdivision processed by the proposed owner/developer in accordance with the subdivision ordinance of the city.

*Off-site fire protection water* shall mean fire protection water mains installed upon streets, alleys, easements or other public rights-of-way located outside the boundaries of the subdivision and installed and/or used for connecting on-site mains within such new subdivisions for the transportation and delivery of potable water and fire protection service to the new subdivision.

*On-site fire protection water* shall mean the fire protection water mains installed within and upon streets alleys, easements or other dedicated public rights-of-way within new subdivisions for the transportation and delivery of potable water and fire protection service within a new subdivision.

*Oversized main* shall mean any fire protection water main either on-site or off-site, required by the wastewater and fire protection system to be installed by a new subdivision developer in excess of the size sufficient to transport and deliver fire protection water and wastewater services to a new subdivision. The standard size water main used to determine the over sizing cost shall be the greater of the line required to serve the immediate project or eight (8) inches.

*Wastewater and Fire Protection System* shall mean a common term used to identify the public utility which is owned by the city of Alton and operated by the five (5) member appointed utility board of trustees.

*Wastewater and Fire Protection System* standards shall mean the construction standards and specifications as determined, transcribed and recorded in the wastewater and fire protection system from time to time, for the construction and installation of fire protection water transmission and distribution mains and related facilities of the wastewater and fire protection system.

*Water meter* installation charge shall mean the fee charged any entity for the installation of a water meter to supply the proposed facility.

*Water system* shall mean the entire water utility system that serves the needs of the customer, which includes treatment facilities; transmission, and distribution lines; taps; meters and all other related appurtenances incidental thereto, with the exception of fire protection water.

### **Sec. 30-111. Required installation.**

As a prerequisite for approval by the city of a proposed new subdivision, the developer thereof shall be required to install fire protection water transmission and distribution mains and service laterals within and/or adjacent to such new subdivision, as specified and require by the wastewater and fire protection system, as follows:

- (1) The developer shall, at their expense, prepare and submit to the City of Alton plans of the proposed new subdivision. The City of Alton system shall have not less than four (4) weeks form the date of receipt of such original plans to approve same or to request specified additions thereto. If revised plans are required, the City of Alton shall have a minimum of four (4) weeks from the date for resubmission to the developer for further required additions, deletions or other changes. Such procedure shall continue until such plans and specifications meet final approval of the City of Alton. No awarding of a construction contract and/or advertisement for contractors bids shall occur prior to final plan and specification approval by the City of Alton.
- (2) In the determination of plans and specifications for the installation of such fire protection water facilities for new subdivisions, the City of Alton shall require facilities to be

constructed to City of Alton standards to service the new subdivision; and the City of Alton may require the installation of off-site standard size facilities or on-site and/or off-site oversized facilities to City of Alton standards in anticipation of future requirements by land areas adjacent to such new subdivisions.

- (3) The City of Alton may require such plans to provide for the on-site fire protection water distribution system to be connected to the existing fire protection water distribution system at more than one point.

**Sec. 30-112. Plat approval.**

Recording of a plat at the Hidalgo County Courthouse for a proposed new subdivision shall not be approved by the city until either:

- (1) The developer shall have placed a bond with the City of Alton executed by the developer and a surety corporation as a surety thereon as approved by the City of Alton . Such bond being in the amount of thirty (30) per cent in excess of the cost of the installation of such fire protection water distribution system as estimated signed and sealed by a Licensed Professional Engineer licensed to practice in the State of Texas and approved by the City of Alton, and further conditioned that such facility shall be installed and fully paid for by the developer in accordance with the plans and specifications of and the final approval of the City of Alton within two (2) years from the date of recording such subdivision plat, failing which the City of Alton may install and/or complete the installation of such facilities with all direct and indirect expenses to the incurred by the City of Alton plus an administrative fee equal to ten (10) per cent of those expenses to be paid by the principal and/or surety or sureties of such bond, and with the City of Alton to have the sole determination as to the method and cost such installation and/or completion of the installation of such facilities; or
- (2) The developer shall have deposited cash funds or an irrevocable letter of credit from a lending institution acceptable to the waterworks system in an amount equal to the cost of such facilities plus thirty (30) per cent thereof, as estimated by the Developer's Engineer and approved by the City of Alton; with such cash funds to be deposited in lending institution of the choice of the waterworks system; with such cash funds deposited and/or letter of credit to be subject to and in accordance with written agreement by and between the subdivider the City of Alton and the depository of such funds and/or the issuer of such irrevocable letter of credit, at times and dates and amounts shall be determined by the City of Alton, from time to time, for payment of the installation of such water distribution system; with such deposits or issuing of irrevocable letters of credit being in connection with written agreement and provisions hat in the event the developer fails to continue and complete the installation of such finally approved facilities within two (2) years of the recording of the subdivision plat the waterworks system may, at its sole option install and/or complete the installation of such facilities, using such deposited cash

funds, or the remainder thereof, or necessary funds to be issued from such irrevocable letter of credit for payment of all direct and indirect expenses plus an administrative fee equal to ten (10) per cent of those expenses therefore, with surplus, if any, of such deposited cash funds to be refunded to the developer upon completion of the installation of such facilities as finally approved by the wastewater and fire protection system.

**Sec. 30-113. Construction procedure.**

- (a) The installation of standard sized fire protection water facilities for new subdivisions may be by a contractor selected by the developer or by a contractor selected from competitive bid procedures and to be approved by the City of Alton.
- (b) The installation of oversized facilities in which the over sizing cost are greater than three thousand (\$3,000.00) shall be submitted for competitive bids by the developer and the City of Alton, jointly, with the awarding of the contract for the construction thereof to be in accordance with the statutes of the State of Texas and the Charter and ordinances of the city; provided, however, that the waterworks system shall have no liability for the original payment for construction of facilities by the construction contractors upon the completion of such construction, pursuant to contract or contracts for such construction, the wastewater and fire protection system shall not be a signatory party to such contract or contracts; provided, however, that such construction shall nevertheless be subject to the progress inspection by the waterworks system and shall be in compliance with all plans and specifications as approved by the City of Alton.
- (c) All contractors for construction of either standard or oversized facilities shall furnish a performance bond and payment bond executed by the contractor as principle, as provided in Article 5160, Vernon's Texas Civil Statutes; and a corporate surety approved by the wastewater and fire protection system, authorized to do business in Hidalgo County, having an agent upon whom service of citation may be had in Hidalgo County; such bond being an amount equal to the total construction cost and such bond being payable to the city, for the benefit of the account of the waterworks system, in the event of default by the subdivider, and shall be conditioned upon:
  - (1) Completion of all such construction in full conformity and compliance with the plans and specifications as previously approved by City of Alton as evidenced by final inspection thereof and such indicated approvals by the City of Alton; and
  - (2) Payment in full by the contractor of all claims for labor performed, materials furnished and other expenses incurred in such construction; and
  - (3) Repair and/or replacement by the contractor of all defects or failures of such installations for one year after completion of such construction and final

inspection and approval date of the City of Alton resulting from faulty, defective or other improper construction.

- (d) The installation of such fire protection water facilities shall be subject to inspection by the City of Alton inspectors at and under reasonable times and conditions, including the aforesaid final inspection. Such inspections shall be on a regular basis by the City of Alton so as to provide for complete inspection of underground or otherwise concealed installations prior to covering and/or concealment.
- (e) Upon final approval by the City of Alton of such completed construction, the wastewater and fire protection system shall issue its letter of occupancy to the developer, with a duplicate executed original thereof to be furnished by the City of Alton to the city or county building inspection department and city or county franchised electric light and power and natural gas utility companies, as inspected.
- (f) Neither the building inspection department or any other agency of the city or county shall authorize connection of potable water supply facilities, wastewater facilities, electric light and power facilities, or natural gas facilities to improvement constructed in a new subdivision without such letter of occupancy having been so executed and filed. Provided, however, that the provision of this subsection shall not apply to temporary potable water supply, electric power and/or gas connections to waterworks facilities and/or franchised public utilities for the purpose of supplying fresh water, electric power and/or gas required for the construction and installation of such new subdivision facilities.

**Sec. 30-114. Provisions for unconditional reimbursement.**

- (a) The developer shall timely pay the total cost and expenses incurred in the construction and installation of the required facilities to serve the new subdivision including on-site, off-site, standard size and oversized facilities.
- (b) Should the payment by the developer under subsection one (a) above include payment for oversized distribution mains required by the City of Alton, the developer shall be reimbursed by the City of Alton for the difference in cost between the oversized mains and the mains required to serve the subdivision (eight-inch minimum). Such reimbursable amount shall be paid by the City of Alton to the developer upon completion of construction and acceptance of the installed system for ownership and operation. Such reimbursable amount shall be payable by the City of Alton to the developer regardless of the subsequent connection onto and use of such oversized facilities by other and additional users.

**Sec. 30-115. Connection to existing fire protection water mains.**

The City of Alton may allow new proposed subdivisions to connect onto reinstalled fire protection water distribution mains when such property is adjacent to or in the serviceable area of such fire protection distribution mains under the following conditions:

- (1) New proposed subdivisions and other entities requiring City of Alton fire protection water service may be allowed, by the City of Alton to connect onto previously installed fire protection water distribution mains when such newly proposed subdivisions or other entities are located adjacent to or in the area contemplated to be serviced by such reinstalled fire protection water distribution mains, and under conditions of the City of Alton having predetermined that such proposed new subdivisions or other entities may be adequately serviced by such reinstalled fire protection water distribution mains.
- (2) Connections to existing fire protection water distribution mains shall be granted by the city upon the satisfactory determination of the foregoing an upon payment to the City of Alton of the appropriate connection charges (front footage, or acreage demand).

**Sec. 30-116. Conditional reimbursement to developers for off-site fire protection water mains.**

The City of Alton will reimburse, to the developer who installed and/or paid for the installation of off-site fire protection water mains and fire hydrants, the front footage and fire protection charges collected from connection of property adjacent to that off-site fire protection water main. The reimbursement period shall be for a period of six (6) years after acceptance by the City of Alton of the off-site water mains from the developer. In no case shall the amount of reimbursement exceed the construction cost of the off-site fire protection water mains and fire hydrants. All reimbursements shall be made only after an application for reimbursement is made to the City of Alton by the developer or his assignee.

The City of Alton, other customers or developers may provide an extension to any previously installed fire protection water line extension without any reimbursement to the original installer, other than the applicable front footage fee if any, for abutting property.

**Secs. 30-117--30-119. Reserved.**

**DIVISION 2. FIRE PROTECTION WATER CONNECTION FEES**

**Sec. 30-120. Fire Protection Water connection fees-Generally.**

As a prerequisite for connecting to the fire protection water system, the City of Alton utility board of trustees adopted a schedule of fees designed to recover installation and over sizing

costs of the water system. A description of the various fees follows:

(1) *Front footage charge.*

- a. Front footage shall be charged to each lot block or parcel of property which abuts a water mains installed and/or paid for by a third party developer or the City of Alton. Front footage charges will not be applicable within subdivisions or other developments when a complete Internal fire protection water system was provided as a part of the development. Front footage and fire protection charges are due and payable prior to connection to the fire protection water system.

Front footage charges for fire protection water mains which serve adjoining property on both sides of the fire protection water mains shall be based on the size of the fire protection main serving the property or that portion of an oversized main required to serve the property (eight-inch minimum). If a parcel of property has or will have, due to a developer installed extension, fire protection water lines on more than one side, but service form only one side, the front footage will be chargeable for the average of the sides abutting the fire protection water mains. However, parcels of property served from more than one side shall pay the front footage for all sides from which service is rendered. Front footage charges for fire protection water mains which can serve property on only one side of the water main, such as along an expressway shall be twice the charges as noted above.

- b. The front footage charge shall be set from time to time by the utility board of trustees to be based on the estimated cost to recover the installation of the fire protection waterlines installed in accordance with the preceding paragraph.

(2) *Fire hydrant charge.*

- a. Fire hydrant charges are designed to recover the cost of installing fire hydrants to met the criteria of the state board of insurance. If an adequate number of fire hydrants and/or system flow capability does not meet the current state board of insurance requirements, new customers will be required to pay the actual cost of upgrading the fire protection service.
- b. The fire hydrant charge shall be set from time to time by the utility board of trustees to be based upon the estimated cost to recover the installation of the fire hydrants installed in accordance with the preceding paragraph.

- (3) *Water Meter Installation Charge.* Reserved
- (4) *Fire Protection Water capital facilities charge.* Each developer shall pay to the City of Alton prior to acceptance to a new development a fire protection water capital facilities charge equal to that of a five-eighths-inch by three-quarter-inch water meter for each lot. Each new connection to the fire protection water system in areas in which the developer has not paid a fire protection water capital facilities charge shall pay the appropriate fire protection water capital facilities charge prior to the issuance of a certificate of occupancy. Records of payments fire protection of the water capital facilities shall be the sole basis of determining prior payment of the fire protection water capital facilities charge. This charge is to be used to reimburse developers for oversizing or construction fire protection water mains or lines as well as to repair and maintain existing fire protection water mains and lines used by such new development. The charge shall be calculated and assessed in the following manner:
- a. *Single-family dwellings* shall be charged a fire protection water capital facilities charge as listed below:

Water Meter Size (inches)	Water Capital Facilities Charge
5/8 X 3/4.....	\$75.00
1.....	\$135.00
1 1/2 .....	\$250.00
2.....	\$350.00

- b. *Duplexes, triplexes and quadplexes* shall be charged a water capital facilities charge of fifty dollars (\$50.00) per dwelling unit.
- c. *Apartments, hotels motels and mobile homes in approved mobile home parks* shall be charged a water capital facilities charge of forty dollars (\$40.00) per dwelling or rooming unit or mobile home lot.
- d. *Nonresidential developments* shall pay a fire protection water capital facilities charge as follows:

Water Meter Size (inches)	Fire Protection Water Capital Facilities Charge
5/8 X 3/4.....	\$100.00
1.....	\$250.00

1 1/2.....	\$750.00
2.....	\$1,500.00

Capital facilities charges for water meters larger than two (2) inches shall be determined on an individual basis.

- e. *Capital facilities charges for existing facilities.* When it can be shown that the installation of a second water meter for the measurement of water not returned to the wastewater system for an existing facility (connected prior to January 1, 1999) that will not increase the demand placed upon the fire protection water system by that facility, the fire protection water capital facilities charge for a second meter shall not be required.
- f. *Reduction in water meter size.* A customer desiring a reduction in the water meter shall not be refunded any monies paid for fire protection water capital facilities charges.

(5) *Construction inspection charge.*

- a. The construction inspection charge recovers the costs of providing construction inspection services for new fire protection water line construction. The construction inspection charge shall cover normal construction service form 7:30 a.m. to 5:30 p.m., Monday through Friday, excluding city holidays. Contractors wanting to work on Saturday, Sundays, holidays or extra long hours, shall make prior arrangements with the City of Alton and will be required to pay the actual cost of this additional inspection service in addition to the fees charged for normal workday installation.
- b. Construction inspection charges shall be set form time to time by the utility board of trustees to be based upon the estimated cost to recover the cost of providing construction inspectors as required by the preceding paragraph.

**Sec. 30-121. Same-Outside city limits.**

The fire protection water connection fees for the preceding section 30-120 shall be one hundred twenty-five (125) per cent of those set forth in said section for services provided outside the city limits.

**Secs. 30-122--30-124. Reserved.**

**DIVISION 3. PROVISIONS FOR EXTENSIONS**

**Sec. 30-125. Application of Division 2.**

All of the provisions of Division 1 of this article shall apply to entities other than developers of new subdivisions seeking connections to and service from the City of Alton's fire protection water system, as such provisions shall apply to such other entities, exclusive of special provisions applicable to the approval of subdivision plats for new proposed subdivisions.

**Secs. 30-126--30-129. Reserved.**

#### **DIVISION 4. SERVICE TO EXTRATERRITORIAL JURISDICTION AREAS**

##### **Sec. 30-130. Option by City of Alton Fire Protection Water System**

The City of Alton shall have the sole option of agreeing to extending its fire protection water system services to entities, including proposed new subdivisions, located outside the city limits, but within the city's extraterritorial jurisdiction area. In the event the City of Alton agrees to extend such fire protection water system service to such extraterritorial areas, all of the provisions of this article shall apply as stated.

**Secs. 30-131--30-134. Reserved**

#### **DIVISION 5. ESTABLISHMENT OF FIRE PROTECTION WATER SYSTEM REIMBURSEMENT, REPAIR AND REPLACEMENT FUND**

##### **Sec. 30-135. Use.**

The funds collected by the City of Alton from the payments of front footage charges as provided for in subsection 30-120(1) and the payment of acreage demand fees as provided for in subsection 30-124(4) shall be maintained in a separate and specially designated Alton wastewater and fire protection system account; and such funds shall be used only to reimburse the subdivision developer who originally installed and paid for offsite water mains as provided for in subsection 30-116 with the remainder to be used exclusively for the replacement, repair and maintenance of water mains of the fire protection water system.

#### **DIVISION 6. FINAL CONTROL**

##### **Sec. 30-140. Exercised by utility trustees.**

Any of the decisions of or other actions of the general manager of the City of Alton Wastewater and Fire Protection System as herein provided for shall be subject to prior review and approval by the utility board of trustees, as it may specify from time to time.

**Secs. 30-141--30-150. Reserved.**

## **ARTICLE VI. CAPITAL IMPROVEMENTS PLAN AND IMPACT FEES**

### **Sec. 30-151. Adoption.**

The capital improvements plan attached to this article as Exhibit a (sections 30-152 through 30-159) is hereby adopted and shall be subject to amendment and periodic update in strict compliance with Chapter 395 of the Texas Local Government Code, as amended, which shall form the basis of all impact fees enacted in accordance with said statute.

### **Sec. 30-152. Descriptive terms.**

The following words or phrases as used in this article shall mean the following:

*Assessment:* A determination of the amount of the impact fee in effect on the date or occurrence provided in this section and is the maximum amount that can be charged per service unit of such development. No specific act by the city Alton wastewater and fire protection system is required for assessment to occur.

*Building permit:* The building permit required in accordance with the Standard Building Code as amended and adopted by the elective City Commission of the city.

*Capital improvement:* Fire protection water supply and distribution facilities and wastewater collection and treatment facilities that have a life expectancy of three (3) years or more and are owned and operated by the city Alton wastewater and fire protection system whether or not they are located within the service area.

*Capital improvements plan:* A plan required in accordance with this article that identifies capital improvements or facility expansions for which impact fees may be assessed.

*Certificate of occupancy:* A certificate of occupancy issued in accordance with the Standard Building Code as amended and adopted by the elective City Commission of the city.

*Connection to the sewer system:* The physical connection of a building, structure or use of land to the city's sewer lines no matter if such connection is made directly or by intermediate lines.

*Facility expansion:* The expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement in order that the existing facility may serve new development. Facility expansion does not include the repair, maintenance, modernization or expansion of an existing facility to better serve existing development.

*Impact fee:* A charge or assessment imposed by the City of Alton wastewater and fire protection system pursuant to this article against new development in order to generate revenue for funding

or recouping all or a portion of the costs of capital improvements or facility expansions necessitated by and attributable to the new development, including amortized charges, lump-sum charges, capital recovery fees, contributions in aid of construction and any other fee that functions in aid of construction and any other fee that functions as described herein. An item included in the capital improvements plan may not be required to be constructed except in accordance with subsection 30-155(e) hereof, and an owner may not be required to construct or dedicate facilities and to pay impact fees for those facilities.

*Land use assumptions:* A description of the service and projections of changes in land uses, densities, intensities and population in the service area over at least a ten-year period.

*New development:* The subdivision of land; the construction, reconstruction, redevelopment conversion structural alteration, relocation or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units.

*Person:* An individual, corporation, partnership, incorporators' association or an other similar entity.

*Service area:* The area within the corporate boundaries, Wastewater CCN boundaries or extraterritorial jurisdiction, as determined under Chapter 42 of the Texas Local Government Code, as amended, of the city to be served by the capital improvements or facilities expansions specified in the capital improvements plan.

**Sec. 30-153. Imposition of Fire Protection water and wastewater facilities impact fee.**

- (a) Any person who, after the effective date of this article, seeks to connect to the city Fire Protection water system is required to pay a Fire Protection water facilities impact fee in the amount set forth in section 30-154 herein.
- (b) Any person who, after the effective date of this article, seeks to connect to the Alton Wastewater System is hereby required to pay a sewer facilities impact fee in the manner and in the amount set forth in section 30-154 herein.
- (c) Sewer connections will not be provided to new development until the above-mentioned impact fees have been paid or an agreement has been entered into with the city regarding payment thereof.

**Sec. 30-154. Amount of Fire Protection water and Wastewater facilities impact fee.**

- (a) Fire Protection Water impact fees are as follows:

<i>Land Use</i>	<i>Service Unit</i>	<i>Total Impact fee</i>
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*Residential:*

*Single-family:*

3/4" meter	Unit	\$229.06
1" meter	Unit	337.35
Apartment	Unit	111.19 + \$30.99/conn.
Rest homes	Bed	70.78 + 30.99/conn.
RV parks	Space	66.87 + 30.99/conn.

*Commercial:*

Carwash	Bay	\$363.20 + 64.99/conn.
Churches	Seat	1.15 + 64.99/conn.
Convenience store	each	379.61
Fast food	each	757.90
Grocery store	Sq. ft.	0.02 + 64.99/conn.
Hotel/motel	Room	39.95 + 64.99/conn.
Laundromats	Water	53.36 + 64.99/conn.
Office prof.	Each	164.53
Restaurants	Seats	6.98 + 64.99/conn.
Store comm.	Sq. ft.	0.02 + 64.99/conn.
Theaters	Seat	0.52 + 64.99/conn.

*Schools:*

Elementary	Classroom	\$57.32 + 64.99/conn.
Jr. high	Classroom	55.10 + 64.99/conn.
Senior high	Classroom	57.48 + 64.99/conn.
Intermediate	Classroom	25.61 + 64.99/conn.

*Other:*

Unlisted	1,000 g.p.d.	\$299.64+ \$64.99/conn.
Wholesale cust.		

(b) Wastewater impact fees are as follows:

<i>Land Use</i>	<i>Service Unit</i>	<i>Cost per Unit</i>
<i>Residential:</i>		
<i>Single-family:</i>		
Single-family	Each	\$ 131.65
Duplex	Duplex	140.62
Apartment	Unit	88.62
Rest homes	Bed	68.10
RV parks	Space	48.92

*Commercial:*

Carwash	Bay	\$443.14
Churches	Seat	1.87
Convenience store	each	607.78
Fast food	each	1,179.00
Grocery store	Sq.ft..	0.03
Hotel/motel	Room	65.00
Laundromats	Washer	97.65
Office prof.	Each	172.05
Restaurants	Seat	12.15
Store comm.	Sq.ft.	0.03
Theaters	Seat	1.05

*Schools:*

Elementary	Classroom	73.86
Jr. high	Classroom	117.73
Senior high	Classroom	121.67
Intermediate	Classroom	93.01

*Other:*

Unlisted	1,000gpd	609.30
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- (c) After assessment of the impact fees attributable to the new development or execution of an agreement for payment of impact fees, additional impact fees or increases in fees shall not be assessed against the tract for any reason unless the number of service units to be developed on the tract increases. If the number of service units increases, the impact fees to be imposed shall be the amount attributable to the additional service units.

**Sec. 30-155. Assessment and collection.**

- (a) For a new development an impact fee may be assessed and collected at either the time of the subdivision approval or at the time a building permit or certificate of occupancy is issued.
- (b) For land platted after the date of adoption hereof impact fees shall be assessed before or at the time of recordation of a subdivision plat or other plat in the official records of the county clerk of Hidalgo County Texas. Except as provided in subsection (f) hereof, the city may collect the impact fees at either the time of recordation of a subdivision plat or connection to the city's Wastewater system or at the time the building permit or certificate of occupancy is issued.

- (c) For land on which new development occurs or is proposed to occur without platting, the city may assess the impact fees at any time during the development and building process and may collect the fees at either the time of connection to the city's Wastewater system or at the time the building permit or certificate of occupancy is issued.
- (d) The city may enter into an agreement with the owner of a tract of land for which the plat has been recorded providing for the time and method of payment of the impact fees assessed in accordance with this section.
- (e) Fire Protection Water and Wastewater impact fees may be assessed but may not be collected in areas where services are not currently available unless:
  - (1) The collection is made to pay for some portion of capital improvement facility expansion that has been identified in the capital improvements plan and the city commits to commence construction within two (2) years and to have the service available within a reasonable period of time considering the type of capital improvement of facility expansion to be constructed that will in no event be longer than five (5) years;
  - (2) The city agrees that the owner of a new development may construct or finance the final improvements or facility expansions and agrees that the cost incurred or funds advanced will be credited against the impact fees otherwise due from the new development or agrees to reimburse the owner for such cost from impact fees paid from other new development that will use such capital improvements for facility expansion, which fees shall be collected and reimbursed to the owner at the time the other new development records its plat which shall in no case be more than twenty (20) years after said final improvements or facility expansions are constructed; or
  - (3) An owner voluntarily requests the city to reserve capacity to serve future development, and the city and owner enter into a valid written agreement covering such reserve capacity. The rights to the use of such reserve capacity shall not be transferred to a third party without the written approval of the director of the city Alton sewer system.
- (f) Impact fees shall not be collected for land platted prior to the date this article is adopted if a building permit is issued within one (1) year from said date of adoption.
- (g) Wastewater and Fire Protection water capital facilities charges fees pursuant to sections 30-83 and 30-120(4) hereof may not be collected against property for which an impact fee is paid in accordance with this article. Sections 30-83 and 30-120(4) of this chapter shall be automatically repealed one (1) year following the adoption of this article.

**Sec. 30-156. Accounting for impact fees and interest.**

- (a) All funds collected through impact fees shall be deposited in interest-bearing accounts clearly identifying the category of capital improvements or facility expansion within the service area for which the fees were adopted.
- (b) Interest earned on impact fees is considered funds of the account on which it was earned and is subject to all restriction son use of impact fees thereunder.
- (c) Impact fee funds may be used only for the purposes for which the impact fee was imposed as shown by the capital improvements plan and as authorized hereunder.

**Sec. 30-157. Refunds.**

- (a) Upon request form an owner of the property for which an impact fee has been paid, the city shall refund the impact fee if:
  - (1) Existing facilities are available and service is denied; or
  - (2) The city has, after collecting the fee when service was not available, failed to commence construction within two (2) years; or
  - (3) Service is not available within a reasonable period considering the type of capital improvement or facility expansion to be constructed but in no event later than five (5) years for the date of payment under section 30-155.
- (b) On completion of the capital improvements or facility expansion identified in the capital improvements plan, the city shall recalculate the exact impact fee using the actual cost of the capital improvement or facility expansion. If the impact fee calculated on actual cost is less than the impact fee paid, the city shall refund the difference if the difference exceeds the impact the impact fee paid by more than ten (10) per cent.
- (c) The city shall refund any impact fee or part thereof that is not spent as authorized hereunder within ten (10) years after the date of payment.
- (d) Any refund shall bear interest calculated form the date of collection to the date of refund at the statutory rate as set forth in Article 5069-1.03, Vernon’s Texas Civil Statutes, as amended.
- (e) All refunds shall be made to the record owner of the property at the time the refund is paid
- (f) If the impact fees were paid by another political subdivision or governmental entity, any

refund amount shall be paid to the political subdivision or governmental entity.

**Sec. 30-158. Periodic update of land use assumptions and capital improvements plan.**

- (a) The city shall update the land use assumptions and capital improvements plan at least every three (3) years in accordance with Chapter 395 of the Local Government Code as amended. The initial three-year period begins on the day the capital improvements plan is adopted.
- (b) If, at a time an update under paragraph (a) herein is required, the appointed commission of the city determines that no change to the land use assumptions capital improvements plan or impact fees is needed it may make a formal determination thereof in accordance with Texas Local Government Code, Section 359.0575, as amended
- (c) Additionally, the appointed commission of the city shall review and update the percentages of the maximum impact fees set forth in the capital improvements plan that are enacted as actual impact fees on an annual basis.

**Sec. 30-159. Use of funds.**

- (a) Funds collected from fire protection water and wastewater facility impact fees shall be used solely for the purpose of constructing capital improvements or facility expansions to water and sewer facilities under the jurisdiction of the city Alton sewer system, including the limited to:
  - (1) Construction contract price;
  - (2) surveying and engineering fees;
  - (3) Land acquisition costs, including land purchases, court awards and costs, attorney's fees and expert witness fees; and
  - (4) Fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the city Alton sewer system.
- (b) Impact fees may not be adopted or used to pay for the following items:
  - (1) Construction, acquisition or expansion of public facilities or assets other than capital improvements or facility expansions identified in the capital improvements plan;
  - (2) Repair, operation or maintenance of existing or new capital improvements or

facility expansions;

- (3) Upgrading, updating, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety efficiency, environmental or regulatory standards;
  - (4) Upgrading, updating, expanding or replacing existing capital improvements to provide better service to existing development;
  - (5) Administrative and operating costs of the city Alton sewer system;
  - (6) Principal payments and interest or other finance charges on bonds or other indebtedness except form those used for the payment of principal an interest on bonds, notes or other obligations issued by or on behalf of the City of Alton sewer system to finance the capital improvements or facility expansions identified in the capital improvements plan.
- (c) Funds shall be expended in the order in which they are collected.
- (d) Funds may be used to provide refunds as described in section 30-157 of this article.
- (e) Funds may be used to rebate developer costs for providing Fire Protection water or wastewater capital facilities in excess of the capacity required to the individual developer making the provision. Any rebates must be pursuant to a refunding agreement between the developer and the city after the effective date of this article.

The City Commission waives a third reading of this Ordinance.

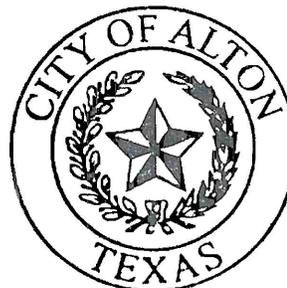
**READ, APPROVED, AND PASSED BY A VOTE of 5 ayes and 0 nays on this 8<sup>th</sup> day of June, 2010 at a GENERAL AND DULY CALLED MEETING OF THE CITY COMMISSION OF THE CITY OF ALTON TEXAS, at which a quorum was present and which was held in accordance with Chapter 551, of the Texas Government Code.**

**CITY OF ALTON**

  
\_\_\_\_\_  
**HONORABLE MAYOR SALVADOR VELA**

**ATTEST:**

  
\_\_\_\_\_  
**BAUDELIA ROJAS, CITY SECRETARY**





**APPROVED AS TO FORM:**

A handwritten signature in black ink, appearing to read 'R. Gonzalez', written over a horizontal line.

**RICARDO GONZALEZ, CITY ATTORNEY**

