

TITLE 11.1

PRETREATMENT PROGRAM

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CHAPTER 11.1-01. GENERAL PROVISIONS

11.1-01-01. Purpose and Policy. This title sets forth uniform requirements for discharges into the city's wastewater disposal system. It is the intent of the Board of City Commissioners that the requirements and standards contained in this ordinance comply with all applicable state and federal laws.

The objectives of this title are:

1. To prevent the introduction of pollutants in the wastewater disposal system which will interfere with the operation of the system or the use or disposal of the sludge;

2. To prevent the introduction of pollutants into the wastewater disposal system which will pass through the system inadequately treated into the receiving waters or atmosphere or otherwise be incompatible with the system; and

3. To improve the opportunity to recycle and reclaim wastewater and sludge from the system.

This title provides for the regulation of discharges into the city's wastewater disposal system through the issuance of

permits to certain users and through enforcement of the general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This title provides for the regulation of and establishes criteria for the use of public sewers, private sewage disposal, building sewers and connections, and general prohibitions.

This title provides for the regulation of industrial wastewater discharges into the city's wastewater disposal system. Wastewater pretreatment requirements and criteria are established and defined.

This title defines the wastewater system user charge system and the method for calculating charges for each user classification; industrial, commercial and residential. Procedures for rate adjustments and annual review criteria are established.

This title provides penalties for violations of provisions of this ordinance, and the orders, rules, regulations and permits issued hereunder.

This title shall apply in the City of Bismarck, North Dakota, and to persons outside the city who are, by contract or agreement with the city, users of the city wastewater disposal system. Except as otherwise provided herein, the director of public works shall administer, implement and enforce the provisions of this ordinance.

11.1-01-02. Definitions. Unless the context specifically indicates otherwise, the following terms as used in this title shall have the following meanings:

1. "Act" - The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

2. "Biochemical Oxygen Demand (BOD)" - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20 degrees Centigrade, expressed in terms of weight and concentration milligrams per liter (mg/l).

3. "Board" - The Board of City Commissioners of the City of Bismarck.

4. "Building Drain" - That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside

the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

5. "Building Sewer" - That extension from the building drain, the sewer, or other place of disposal.

6. "City" - The City of Bismarck or the Board of City Commissioners of the City of Bismarck and "Publicly Owned Treatment Works" as defined in Section 403.3(o) of the Act.

7. "Combined Sewer" - A sewer intended to serve as a sanitary sewer and a storm sewer, or as an industrial sewer and a storm sewer.

8. "Cooling Water" - The water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added to the water is heat.

9. "Director" - The Director of Utility Operations for the City of Bismarck.

10. "E.P.A." - The United States Environmental Protection Agency.

11. "Engineer" - The City Engineer of the City of Bismarck or his authorized agent.

12. "Excessive Infiltration/Inflow" - The quantities of infiltration/inflow which can be economically eliminated from a sewerage system by rehabilitation, as determined in a cost-effectiveness analysis that compares the costs for correcting the infiltration/inflow conditions versus the total costs for transportation and treatment of the infiltration/inflow.

13. "Garbage" - Solid waste from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

14. "Industrial Wastes" - Liquid wastes from industrial manufacturing processes, trade or business, as distinct from sanitary sewage, including industrial cooling water and unpolluted trade or process wastes.

15. "Industrial User" - A person who discharges to the city's wastewater disposal system liquid wastes resulting from the processes employed in industrial, manufacturing, trade or business establishments, or from the development of any natural resource.

16. "Infiltration" - Water other than wastewater that enters a sewerage system (including sewer service connections) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include and is distinguished from inflow.

17. "Inflow" - Water other than wastewater that enters a sewerage system (including sewer service connections) from sources such as roof leaders, cellar drains, yard drains, area drains, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

18. "Insignificant Industrial Users" - Any industrial users that have dry processes, discharge only sanitary wastes, or are considered to have an insignificant impact on the wastewater disposal system.

19. "Interference" - The inhibition or disruption of the city's wastewater disposal system processes or operations which cause or contributes to a violation of any requirement of the city's NPDES or State Disposal System Permit. The term includes prevention of sewage sludge use or disposal by the city in accordance with published regulations providing guidelines under section 405 of the Act or any regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria applicable to the method of disposal or use employed by the city.

20. "Interceptor Sewer" - A sewer whose primary purpose is to transport wastewaters from collector sewers to a treatment facility.

21. "May" - May is permissive. See "shall".

22. "Minor Industrial User" - Any industrial user that discharges nondomestic pollutants to the public sewer in amounts that, on a routine basis, have insignificant impact on the treatment works but may nonetheless present the potential to impact the collection or treatment system or to violate the prohibited discharge limitations in this title. This includes those industries that present the potential to cause sewer obstruction, slug loads, or chemical spills.

23. "Natural Outlet" - Any outlet including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

24. "National Categorical Pretreatment Standard" - Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act which applies to a specific category of industrial users.

25. "National Pollution Discharge Elimination System (NPDES) Permit" - Any permit or requirement issued by the North Dakota State Department of Health pursuant to the Federal Water Pollution

Control Act as amended for the purpose of regulating the discharge of sewage, industrial wastes, or other wastes under the authority of Section 402 of the Act.

26. "New Source" - means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

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

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

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (k)(1)(ii), or (k)(1)(iii) of this section but otherwise alters,

replaces, or adds to existing process or production equipment.

Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

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

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

(b) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

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

27. "Owner or occupant" - Any person owning or using the lot, parcel of land or premises connected to and discharging sewage into the sewage system of the City, and who pays for is legally responsible for the payment of water rates or charges made against the lot, parcel of land, building or premises if connected to the sewage system, or who would pay or be legally responsible for such payment.

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

29. "Person" - Any individual, firm, company, association, governmental agency, society, corporation, group or political subdivision.

30. "pH" - The logarithm of the reciprocal of the weight of hydrogen ions in grams moles contained in one liter of solution.

31. "Pretreatment" - The process of reducing the nature of pollutant properties, eliminating pollutants, or altering the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging wastewater to disposal system. The reduction, elimination, and alteration may be obtained by physical, chemical or biological processes, process changes or other means, except as prohibited by this title.

32. "Pretreatment Coordinator (Coordinator)" - The Director of Utility Operations or his/her authorized representative.

33. "Pretreatment Requirements" - means any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.

34. "Pretreatment Standard" - or "Standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307 (b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to Section 403.5.

35. "Properly Shredded Garbage" - Wastes from the preparation, cooking, dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

36. "Public Sewer" - A sewer in publicly owned land or easements and controlled by the City of Bismarck.

37. "Sanitary Sewage" - The water carried wastes from residences, hotels, restaurants, eating houses, or from business establishments or premises engaged solely in the sale, storage or repair of goods, wares or merchandise, and which contains garbage, human wastes, or animal wastes.

38. "Sewage" - See "Wastewater".

39. "Sewage Treatment Plant" - (Also Wastewater Treatment Facilities or Publicly Owned Treatment Works (POTW) means a treatment works as defined by section 212 of the Act, which is owned by a state or municipality (as defined by Section 502(4) of the Act). This definition

includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant.

40. "Sewer" - A pipe or conduit for carrying wastewater.

41. "Shall" - Shall is mandatory. (See "May".)

42. "Significant Industrial User" - Any industrial user of the City's wastewater disposal system who: (a) is subject to National Categorical Pretreatment Standards; (b) discharges an average of 25,000 gallons per day or more process wastewater to the City system; (c) contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the wastewater treatment plant; or (d) is designated by the City, State or EPA as having a reasonable potential to adversely affect the City's wastewater collection or treatment system or to violate any pretreatment standard or requirement.

43. "Slug" - Any discharge of water, sewage or industrial waste in which concentration of any given constituents or in which quantity of flows exceed for any period of duration longer than fifteen minutes more than five times the average twenty-four hour concentration or flow during normal operation.

44. "State" - State of North Dakota.

45. "Storm Sewer" - A sewer intended to carry only storm waters, surface runoff, street wash waters, and drainage, but which excludes sewage and industrial wastes.

46. "Suspended Solids" - The total suspended matter that either floats on the surface of, or is suspended in water, wastewater, or other liquids, and that is removable by laboratory filtering with a standard glass fiber filter.

47. "User" - Any person who discharges, causes or permits the discharge of wastewater into the City's wastewater disposal system.

48. "User Charge" - A charge levied on users of a treatment works for the user's proportionate share of the cost of operation and maintenance (including replacement) of such works under Section 204(b)(1) and 201(h)(2) of the Act and this subpart.

49. "Unpolluted Water" - Any water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to sanitary sewers and wastewater treatment facilities provided.

50. "Wastewater" - The liquid water carrying domestic or industrial wastes from dwellings, commercial buildings, industrial facilities, and stormwater that may be present, whether treated or untreated, which is discharged into or permitted to enter the City's sewage disposal system.

*(Ord. 4664, 02-28-95; Ord. 5269, 08-12-2003)*

#### CHAPTER 11.1-02. BUILDING SEWERS AND CONNECTIONS

11.1-02-01. Permit - General. An unauthorized person may not uncover, make connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City Engineer.

11.1-02-02. Permit Application. There are two classes of building sewer permits: (1) For residential and commercial service; and (2) For service to establishments producing industrial wastes. In either case, the owner, or his agent, shall make an application on a special form furnished by the city. The permit application must be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the city engineer. A permit and inspection fee must be paid to the city at the time the application is filed. The amount of such fee shall be established by resolution by the Board.

11.1-02-03. Connection Costs. All costs and expenses incidental to the installation and connection of the building sewer must be borne by the owner. The owner shall indemnify the City from all loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

11.1-02-04. Connections. A separate and independent building sewer must be provided for every building. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the city engineer, to meet all requirements of this title.

11.1-02-05. Construction. The size slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing the pipe, jointing, testing and backfilling the trench, shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of suitable code, provisions set forth in appropriate specifications of the latest

edition of Recommended Standards for Sewage Works, published by the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers (Ten States Standards) shall apply.

11.1-02-06. Location. Wherever possible, the building sewer must be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewerage carried by the building's drain shall be lifted by approved methods and discharged to the building sewer.

11.1-02-07. Restrictions. A person may not make connection of roof downspouts, exterior foundation drains, or other sources of surface runoff or groundwater to a building sewer, or building drain which in turn is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the city engineer and the North Dakota State Health Department.

11.1-02-08. Building Codes. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the Ten States Standards. All such connections must be gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the city engineer before installation.

11.1-02-09. Inspection. The applicant for the building sewer permit shall notify the city engineer when the sewer is ready for inspection and connection to the public sewer. The connection and testing must be made under the supervision of the city engineer or his representative.

11.1-02-10. Safety and Restoration. All excavations for building sewer installation must be adequately guarded with barricades and lights so as to protect the public from hazard, in accordance with the Manual of Uniform Traffic Control Devices. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

#### CHAPTER 11.1-03. REGULATIONS

11.1-03-01. Prohibitions. A user may not discharge or cause to be discharged, directly or indirectly, any of the following substances into the wastewater disposal system or to any public sewer:

1. Any pollutants which create a fire or explosion hazard in the sewer system or wastewater treatment

facilities, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21.

2. Solid or viscous substances which will or may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater system.

3. Any wastewater having a pH less than 6.0 or having other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the wastewater disposal system.

4. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the wastewater disposal system. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

5. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by applicable state or federal regulations.

6. Pollutants which result in the presence of toxic gases, vapors or fumes in the wastewater facilities that may cause a public nuisance, hazard to life or cause acute health and safety problems for workers.

7. Any substance which may cause the wastewater disposal system's effluent or any other product of the wastewater treatment process such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the wastewater disposal system cause the system to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act, or any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act or State Standards applicable to the sludge management method being used.

8. Any substance which will cause the wastewater disposal system to violate its NPDES and/or other State Disposal System Permits.

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

10. Any wastewater having a temperature which will inhibit biological activity in the wastewater disposal system resulting in interference, but in no case, wastewater with a temperature at the introduction into the disposal system which exceeds 60 degrees Centigrade (140 degrees Fahrenheit), or which causes the temperature of the influent at the sewage treatment plant to be 40 degrees Centigrade (104 degrees Fahrenheit) or more.

11. Any pollutant, including oxygen demanding pollutants (e.g. BOD), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the wastewater treatment plant.

12. Any unpolluted water, including but not limited to non-contact cooling water, storm water, subsurface drainage or groundwater.

13. Any wastewater containing fats, wax, grease or oils, including petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, if such materials:

(a) Deposit grease or oil in the sewer lines in such manner as to obstruct the sewers; or

(b) Overload the User's skimming and grease handling equipment; or

(c) Are not amenable to treatment and will therefore pass through the wastewater treatment facilities to the receiving waters without adequate treatment; or

(d) Have adverse effects on or interfere with the treatment process.

14. Any garbage that has not been properly shredded.

15. Any trucked or hauled pollutants, except at discharge points designated by the Pretreatment Coordinator.

*(Ord. 4457, 08-04-92)*

11.1-03-02. Limitations on Wastewater Strength.

1. National Categorical Pretreatment Standards: National Categorical Pretreatment Standards promulgated by the E.P.A. pursuant to the Act must be met by all users

that are subject to such standards if they are more stringent than the limitation in this title. An application for modification of the national categorical pretreatment standards may be considered for submittal to the Regional Administrator by the Pretreatment Coordinator when the city's wastewater treatment system achieves consistent removal of the pollutants defined by 40 CFR 403.7.

2. State Requirements: State requirements and limitations on discharges must be met by all users that are subject to such standards if they are more stringent than federal requirements and the limitations of this title.

3. City's Right of Revision: The City reserves the right to establish by ordinance more stringent or more lenient limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in Chapter 11.1-01.

4. Dilution: A User may not 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 the limitations contained herein, contained in the Federal Pretreatment Standards, or contained in any state requirements.

5. Supplementary Limitations: Except as noted in 11.1-03-02.6 no user may discharge wastewater containing materials in excess of the following values:

<u>Material</u>	<u>Concentration</u> <u>mg/l</u>
Benzene_____	0.05
BETX, (Total')_____	0.75
Cadmium_____	0.09
Chromium (Total)_____	4.39
Chromium (VI)_____	4.39
Copper_____	2.50
Lead_____	0.94
Mercury_____	0.06
Nickel_____	0.79
Selenium_____	0.20
Silver_____	0.94
Zinc_____	7.93

Concentrations apply at the point of discharge to the City collection system. The pretreatment coordinator may impose mass limitations in addition to or in place of the above concentration based limits if deemed appropriate to prevent interference or to protect the quality of the treatment plant effluent or sludge. <sup>1</sup>BETX shall be

measured as the sum of benzene, ethylbenzene, toluene, and xylenes.

6. Special Mass-Based Limitations: In developing the above limits provision has been made to reserve a limited amount of treatment capacity for small quantities of wastewater that exceeds these limits. Wastewater may be accepted on a mass-limitation basis from dischargers that do not meet the definition of a significant industrial user providing that prior approval for such discharges is obtained from the pretreatment coordinator and the discharge will not exceed any of the mass-based limits below:

<u>Material</u>	<u>Daily Total Mass Loading, lbs</u>
Cadmium_____	0.046
Chromium (Total)_____	1.75
Chromium (VI)_____	1.75
Copper_____	1.26
Lead_____	0.39
Mercury_____	0.026
Nickel_____	0.33
Selenium_____	0.10
Silver_____	0.38
Zinc_____	3.62

These limits are the total of all such approved discharges for a given day. All wastewater shall be subject to sampling and analysis prior to and/or during discharge. The pretreatment coordinator shall have the authority to deny or terminate any such discharge if it will result in an exceedance of the above limits. The cost of testing to characterize wastes shall be the responsibility of the discharger.

7. Special Agreements: Provisions contained in this chapter shall not be deemed to prevent any contract authorized by the Board of City Commissioners in the usual manner between the city and any user whereby an industrial waste of unusual strength or characteristic may be accepted by the city for treatment which will not violate or cause the city to violate federal or state discharge standards, and which will not be harmful to the wastewater treatment plant, the treatment process, or the sewage lines.

8. Accidental Discharges: Each discharger shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this title. Where necessary, facilities to prevent accidental

discharge of prohibited materials must be provided and maintained at the user's expense. Detailed plans showing facilities and operating procedures to provide the protection must be submitted to the Pretreatment Coordinator for review, and must be approved by the Pretreatment Coordinator before construction of the facility. Each existing user shall complete its plan and submit it to the Pretreatment Coordinator by a date specified in its Wastewater Discharge Permit. A user who discharges to the wastewater disposal system after the date specified may not be permitted to introduce pollutants into the system until accidental discharge protection procedures have been approved by the Pretreatment Coordinator. Review and approval of such plans and operating procedures by the Coordinator shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of this title.

Users shall notify the Pretreatment Coordinator immediately upon the occurrence of a "slug" load or accidental discharge of substances prohibited by this title.

*(Ord. 4627, 08-02-94; Ord. 4676, 04-25-95)*

11.1-03-03. Wrongful Discharge of Waste Into Storm Sewer Watercourse. No person shall discharge wastewater or industrial wastes into any storm sewer or other watercourse within the city. Wastewater or industrial wastes may be discharged pursuant to this chapter only into the sanitary sewer system via an approved building sewer or at discharge points authorized by the Engineer or the Pretreatment Coordinator. A violation of this section is an offense.

*(Ord. 4383, 07-02-91)*

#### CHAPTER 11.1-04. FATS, OIL AND GREASE CONTROL

11.1-04-01. Purpose and Policy. This chapter sets forth uniform requirements for Food Service Establishments (FSEs) that discharge wastewater to the City of Bismarck sanitary sewer. The objectives of this chapter are:

1. To prevent the excessive introduction of fats, oil and grease (FOG) into the sewer system and the wastewater treatment plant;
2. To prevent the accumulation of grease within the sewer system which can lead to sanitary sewer pipe blockages and subsequent back ups and sanitary sewer overflows (SSO);
3. To reduce the costs of maintaining the sewer system by preventing the accumulation of grease and

residue within the sewage system lines and ensure that the cost of maintaining the public sewer system is equitably distributed amongst users;

4. To clarify grease disposal requirements for FSEs;

5. To protect public health and safety from pollution caused by SSO.

*(Ord. 5575, 03-13-07)*

11.1-04-02. Administration. Except as otherwise provided herein, the pretreatment coordinator or designated representative shall administer, implement, and enforce the provisions of this chapter.

*(Ord. 5575, 03-13-07)*

11.1-04-03. Definitions. Unless the context specifically indicates otherwise, the following definitions represent the meanings of terms as they are used in this title:

1. "Best Management Practices ("BMPs")" - A schedule of activities, prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the introduction of FOG to the sanitary sewer system.

2. "Fats, Oils, and Grease ("FOG")" - Any substance, such as vegetable, animal or other product that is used in, or is a by-product of, the cooking or food preparation process, and that turns or may turn viscous or may solidify with a change in temperature or other conditions. Grease may originate from, but not limited to, discharges from scullery sinks, pot and pan sinks, dishwashing machines, soup kettles and floor drains located in areas where grease-containing materials may exist.

3. "Food Service Establishment ("FSE")" - Food service facility licensed by the City of Bismarck that prepares and/or provides food for consumption.

"Class 1 FSE" - Any establishment where a grill, deep fry unit, broaster, wok or grease producing process is used to prepare food. All new Class 1 FSEs are required to install approved grease interceptor(s). All new and existing Class 1 FSEs are required to implement and adhere to the best management practices in this Ordinance.

"Class 2 FSE" - Any establishment using only a heat-producing device, such as a microwave,

conventional oven, toaster oven, hot dog rotisserie, coffee maker, etc. to prepare food. Any food establishment that prepares and/or serves meals 2 or fewer times per week or satellite food service establishments where primary food preparation is conducted offsite or initial preparation of foods does not occur. A satellite food service facility is one that maintains thoroughly cooked food hot. All Class 2 FSEs must implement and adhere to the best management practices in this Ordinance.

4. "Food Waste Disposal Unit" - A device that shreds or grinds up solid or semisolid waste material into smaller portions for disposing it in the sanitary sewer. These devices are also referred to as grinders, garbage grinders and garbage disposals.

5. "Grease Interceptor" - A vault that is located on the exterior of the building which has a minimum of two compartments. The capacity of the interceptor provides adequate residence time so that the wastewater has time to cool, allowing grease to congeal and rise to the surface where it accumulates until the interceptor is cleaned.

6. "Grease Interceptor Waste" - Any grease, food particles, organic or inorganic solid or semisolid waste collected and intercepted by a grease interceptor usually in layers of floatable, suspended and settleable substances, which are ultimately removed for proper disposal.

7. "Grease Trap" - A grease removal device located within the facility, which helps to protect the internal plumbing from grease clogs.

8. "Grease Removal Device" - An interceptor, trap or other mechanical device designed, constructed, and intended to remove, hold, or otherwise prevent the passage of grease to the sanitary sewer.

9. "Sanitary Sewer Overflow" (SSO) - Any unplanned discharge from the separate sanitary sewer system.

10. "Twenty-five percent rule" - A requirement of when grease interceptors shall be fully pumped out and cleaned. This rule requires that when the combined FOG (including floating solids) and the settled solids accumulation reaches 25% of the total designed hydraulic depth of the grease interceptor, the grease

interceptors shall be fully pumped out and cleaned. This requirement will help to ensure that the minimum hydraulic detention time and the required available hydraulic volume are maintained to effectively intercept and retain FOG in the interceptor.

Additional definitions relevant to this title are contained in City Ordinance Section 11.1-01-02.

*(Ord. 5575, 03-13-07)*

11.1-04-04. Facilities Required to Remove Grease. All new Class 1 FSEs shall install grease interceptors to prevent the discharge of FOG to the building drainage system and the public sewer system. Grease interceptors shall be installed to receive the drainage from plumbing fixtures and equipment with grease-laden wastewater located in FSEs. Grease interceptors are not required for residential users. Existing Class 1 FSEs shall install grease interceptors when they remodel their kitchen involving structural renovations in their food preparation area including the sewer system, or cause excessive grease accumulation in the sanitary sewer. All Class 1 and Class 2 FSEs shall implement and adhere to the BMPs in this Ordinance.

*(Ord. 5575, 03-13-07)*

11.1-04-05. Best Management Practices. To minimize the discharge of FOG into the sanitary sewer system, the following Best Management Practices shall be implemented by all classes of FSEs. This includes kitchen practices and employee training that are essential in minimizing FOG discharges:

1. Installation of drain screens. Drain screens shall be installed on all drainage pipes in food preparation areas. This includes kitchen sinks, floor drains and mop sinks.

2. Segregation and collection of waste cooking oil. All waste cooking oil shall be collected and stored properly in recycling receptacles. Such recycling receptacles shall be maintained to ensure that they do not leak. Licensed waste haulers or an approved recycling facility must be used to dispose of waste cooking oil. This would not apply to FSEs without deep fry units.

3. Disposal of food waste. Food wastes shall be disposed of directly into the trash or garbage, and not in the drain.

4. Employee training. Employee training shall be provided as part of the normal orientation process and annually thereafter including, at a minimum, the following subjects.

a. How to "dry wipe" pots, pans, dishware and work areas before washing to remove grease.

b. How to properly dispose of food waste and solids in enclosed plastic bags prior to disposal in trash bins or containers to prevent leaking and odors.

c. The location and use of absorption products to clean under fryer baskets and other locations where grease may be spilled or dripped. All FSEs are responsible to safely install materials to meet this requirement.

d. How to properly dispose of grease or oils from cooking equipment into a grease receptacle without spilling.

e. Viewing of the City of Bismarck Industrial Pretreatment video on Fats, Oil and Grease Control.

Training shall be documented and employee signatures retained indicating each employee's attendance and understanding of the practices reviewed. Training records shall be available for review at any reasonable time by a City inspector.

5. Kitchen signage. FOG control practices shall be posted in food preparation and dishwashing areas at all times.

6. Grease removal devices. All FSEs shall maintain their grease removal devices in accordance with this Ordinance.

*(Ord. 5575, 03-13-07)*

11.1-04-06. New Construction. All new Class 1 FSEs shall install grease interceptors in accordance with the Plumbing Code. All classes of FSEs are required to submit the drainage plumbing plans to the pretreatment coordinator or designee for approval prior to obtaining a building permit. Failure to construct in accordance with approved plans is a violation of this ordinance.

New FSEs that are required to maintain a grease interceptor by this or other applicable ordinances, shall install such a unit prior to commencement of discharge to the sanitary sewer.

*(Ord. 5575, 03-13-07)*

11.1-04-07. Existing Users.

1. Existing Class 1 FSEs not equipped with a grease interceptor shall install an adequately sized grease interceptor in accordance with the specifications of this Ordinance when the kitchen is remodeled involving structural renovations in their food preparation area including the sewer system or their discharge causes excessive grease accumulation in the sanitary sewer.

2. An Existing Facility changing from a Class 2 FSE to a Class 1 FSE shall be required to install an approved grease interceptor.

(Ord. 5575, 03-13-07)

11.1-04-08. Grease Interceptor Sizing Criteria. All grease interceptors shall be of a type and capacity approved by the pretreatment coordinator and shall be so located to be easily accessible for cleaning and inspection. The size, type and location of each grease interceptor shall be approved by the pretreatment coordinator before installation. The pretreatment coordinator is authorized to make determinations of grease interceptor adequacy and need, based upon a review of relevant information regarding grease interceptor performance, maintenance, and facility site and building plan review and to require repairs to, and modification or replacement of such interceptors.

1. The size of the grease interceptor shall be determined using the following flow based criteria:

FIXTURE TYPE	# OF FIXTURES	FLOW (GPM)	TOTAL FLOW (GPM)
Kitchen Area Sinks:			
Single Compartment	_____	x 20 =	_____
Double Compartment	_____	x 25 =	_____
Triple Compartment	_____	x 30 =	_____
Mop/Clean-up	_____	x 20 =	_____
Dishwashers:			
up to 30 gallon capacity	_____	x 15 =	_____
30 to 50 gallon capacity	_____	x 25 =	_____
50 to 100 gallon capacity	_____	x 40 =	_____

Grand Total Flow = \_\_\_\_\_  
 Detention Time Factor (x10) = \_\_\_\_\_  
 Required Grease Interceptor Capacity = \_\_\_\_\_ gallons

2. FSEs that propose the use of alternate sizing techniques and/or procedures that result in

specifications that differ from requirements calculated under Paragraph 1, must submit formulas and other basis to support the proposed grease interceptor size/installation signed by a professional mechanical engineer registered in the State of North Dakota.

*(Ord. 5575, 03-13-07)*

11.1-04-09. Grease Trap Sizing Criteria. Grease traps control limited amounts of FOG and are considered voluntary mechanisms to control FOG discharges from FSEs. However, if a FSE decides to install a grease trap, the following sizing guidelines are recommended. The volume of the fixtures connected to the grease trap should not exceed two and one half times the flow rate in gallons per minute of the grease trap. The following table provides the criteria that should be considered for grease trap sizing:

Rate of flow, gpm	Grease retention capacity, lbs	Maximum allowable fixture volume in gallons
20	40	50
25	50	62.5
35	70	87.5
50	100	125

*(Ord. 5575, 03-13-07)*

11.1-04-10. Grease Removal System Maintenance. The owner or lessee of every FSE required to install or use a Grease Removal Device shall, at its own expense, inspect, clean, and maintain the Grease Removal Device in efficient operating condition at all times.

1. Facilities with Grease Interceptors

a. Unless otherwise specified by the pretreatment coordinator, each interceptor in active use shall be cleaned at least once every three months or when the total accumulation of surface FOG (including floating solids) and settled solids reaches twenty-five percent (25%) of the grease interceptor's overall liquid depth (25 Percent Rule), which ever comes first. The pretreatment coordinator may specify cleaning more frequently when quarterly pumping is shown to be inadequate. The pretreatment coordinator may change the required maintenance frequency to reflect changes in actual operating conditions.

Any Food Service Establishment desiring a schedule less frequent than quarterly shall submit a request to the pretreatment coordinator along with the maintenance servicing records, including measurements of the thickness of the floating FOG and bottom solids layer, and volume removed.

b. A reduction in cleaning frequency may be granted by the pretreatment coordinator when it has been determined that the FOG interceptor has adequate detention time for FOG removal. The cleaning frequency will depend on variables such as: (a) the capacity of the device, (b) the amount of grease in the wastewater, (c) the amount of solids in the wastewater and (d) degree of adherence to the FOG BMPs.

c. FSEs shall require the liquid waste hauler, transporter, or any other person cleaning or servicing an interceptor to completely evacuate all contents, including floating materials, wastewater, bottom solids, and grease during servicing. Skimming the surface layer of waste material, partial cleaning of the interceptor or use of any method that does not remove the entire contents of the collection device is prohibited. The suction of the floating materials shall be done prior to removal of other contents. After complete evacuation, the walls, top, and bottom of the interceptor shall then be thoroughly scraped and the residue removed. Upon completion of the servicing, the FSE manager or his/her designated representative shall inspect the interior of the interceptor and then document this servicing in the facility's grease removal device maintenance log. In the event that the interceptor is larger than the capacity of the vacuum truck, it shall be completely evacuated within a twenty four (24) hour period.

d. The discharge of liquid, semi-solids, or solids back into an interceptor during and/or after servicing is prohibited. Decanting or discharging of any grease removal device wastes back into the grease removal device, any private sewer, any sewage drainage piping, any storm sewer system or any other grease removal device is prohibited.

2. Facilities with Grease Traps.

a. Grease traps shall be serviced at least weekly or when the amount of grease captured is at 50% of the trap's capacity, whichever is sooner. After the accumulated grease has been removed, the grease trap shall be thoroughly inspected to make certain that the inlet, outlet, and air relief ports are clear of obstructions.

b. A reduction in cleaning frequency may be granted by the pretreatment coordinator when it has been determined that the grease trap has adequate detention time for FOG removal. The cleaning frequency will depend on variables such as: (a) the capacity of the device, (b) the amount of grease in the wastewater, (c) the amount of solids in the wastewater and (d) degree of adherence to the FOG BMPs.

c. A flow control device must be installed before each grease trap.

d. A dishwasher or food grinder shall not be connected to a grease trap. Exemptions for existing facilities will be granted.

e. Grease traps must be regularly inspected for leaking seams, pipes, and flow control fitting(s) and repaired if necessary. Grease traps and their baffles shall be maintained free of all caked-on FOG and other waste. Removable baffles shall be removed and cleaned during the maintenance process.

f. Grease and other waste removed from the grease trap shall not be disposed of into any drain or sewer. Waste must be disposed of in accordance with federal, state and/or local laws.

3. Facilities with grease removal devices other than grease traps or grease interceptors must follow the manufacturer's recommendations for operation and maintenance.

*(Ord. 5575, 03-13-07)*

11.1-04-11. Bacteria, Enzymes and other Chemical Additives. The introduction of bacteria, emulsifiers, de-emulsifiers, surface active agents, degreasers, or enzymes either directly or indirectly into a grease trap or grease interceptor, other than in typical business operation practices such as dishwashing or sanitation, is strictly prohibited.

*(Ord. 5575, 03-13-07)*

11.1-04-12. Interceptor Construction Requirements. Grease interceptors shall be constructed in accordance with the Plumbing Code. There shall be a minimum of one (1) manhole per ten (10) feet of interceptor length to provide access for cleaning. Manhole covers shall be gastight in construction and have a minimum opening dimension of twenty-four (24) inches. Concrete covers are not acceptable. In areas where traffic may exist, the interceptor shall be designed for the appropriate traffic load. The access manholes shall extend at least to finished grade and be designed and maintained to prevent surface and ground water from entering the grease interceptor.  
(Ord. 5575, 03-13-07)

11.1-04-13. Grease Trap Construction Requirements. Grease traps may be installed on waste lines leading from kitchen floor drains, mop sinks, food preparation and washing sinks, and other fixtures or equipment where grease may be introduced into the sewer system. Class 1 FSEs that currently have grease traps shall retain and maintain them until they install a grease interceptor. FSEs that have grease traps or those that install them are subject to the requirements below:

1. The grease trap may be set on the floor or partially or fully recessed in the floor to suit piping and structural conditions. Baffle systems and all other internal pieces shall be removable to facilitate cleaning and replacement, but must be in place at all other times.

2. There shall be sufficient clearance for the removal of the trap cover for cleaning. The trap shall be equipped with a flow control fitting. A suitable flow control fitting shall be installed ahead of each trap in the waste line beyond the fixture and as close as possible to the underside of the lowest fixture. When wastes of two or more sinks or fixtures are combined for use by one grease trap, a single flow control fitting shall be used. All grease traps shall have a vented waste line to retain water and prevent siphoning.

(Ord. 5575, 03-13-07)

11.1-04-14. Abandoned Grease Interceptors. An FSE that abandons grease interceptors shall have them removed.  
(Ord. 5575, 03-13-07)

11.1-04-15. Record Keeping and Inspections. Each FSE shall maintain a grease removal device maintenance log. The log shall include the dates of service, who performed the service and the disposal method. A record of maintenance, repairs, and a log of pumping and waste hauling of contents shall be maintained and provided to the pretreatment coordinator upon request.

1. All FSEs will be inspected periodically by the City. FSEs shall allow the City ready access at all reasonable times for the inspection of grease removal devices and all pertinent maintenance records for the grease removal devices.

2. Upon the showing of proper credentials, the pretreatment coordinator shall have the authority to enter an FSE's premises for scheduled or unscheduled inspections. Failure of the pretreatment coordinator to make prior arrangements for an inspection shall not be considered a legitimate reason to refuse admittance. An FSE must keep records associated with waste cooking oil collection and disposal, interceptor hauling and maintenance records on-site for a minimum of three (3) years and must be available for inspection by the pretreatment coordinator during normal business hours. A separate maintenance log shall be maintained for each grease removal device. Grease removal device maintenance logs shall include at a minimum the following information:

- a. Identification of the grease removal device.
- b. The date that maintenance occurred.
- c. The volume of grease removed in gallons.
- d. The bottom solids fraction and floating grease layer that are removed and the total depth of the grease interceptor in inches.
- e. The name of the company and person(s) performing the maintenance.

The waste removed from the grease removal device must be disposed of in accordance with federal, state and/or local laws.

*(Ord. 5575, 03-13-07)*

11.1-04-16. Reporting. When the pretreatment coordinator has determined that an FSE must provide written reports, these reports shall be submitted in accordance with the requirements of the pretreatment coordinator. Written reports required by this title will be deemed submitted upon actual receipt by the pretreatment coordinator.

*(Ord. 5575, 03-13-07)*

11.1-04-17. Variance from Grease Interceptor Requirements.

A variance from the grease interceptor requirements may be allowed if it is shown that an alternative pretreatment technology is equally effective in controlling the FOG discharge or that it is not feasible to install an interceptor. In determining whether or not to grant a variance, the pretreatment coordinator may consider the following:

1. Whether or not there is adequate space for installation and/or maintenance of a grease interceptor. The FSE must demonstrate that the installation of a grease interceptor is not feasible or advisable.

2. Whether or not the FSE can justify and demonstrate that an alternative pretreatment technology is equivalent or better than a grease interceptor in controlling its FOG discharge.

3. Any request for a variance must be made in writing to the pretreatment coordinator. The written request must include the reasons for the FSE's failure or inability to comply.

Upon a determination by the pretreatment coordinator, in consultation with the Building Official and the Environmental Health Administrator that there are sufficient reasons to justify a variance, the FSE will be relieved to the extent expressly provided for in the variance. A variance shall contain terms and conditions that serve as basis for its issuance. A variance may be revoked at any time if any of the terms and conditions for its issuance are not satisfied or if the conditions upon which the variance was based change to the extent that the justification for the variance no longer exists. The variance shall be valid so long as the FSE remains in compliance with the terms and conditions specified in the variance.

Denial of a variance is subject to an appeal to the Board of City Commissioners. A written notice of appeal must be filed with the City Administrator within 10 days of receipt of the notice of denial. If no appeal is filed within the time specified the action of the pretreatment coordinator shall be final.

Upon receipt of a notice of appeal the Board shall set a date for a hearing within 15 days of receipt of the notice of appeal. Notice of the time and place for the hearing must be served upon the applicant personally or by certified mail at least

five days before the hearing. The Board shall hear such testimony and other evidence as it deems necessary and expedient and thereupon make its findings and decision, which shall be final.

*(Ord. 5575, 03-13-07)*

11.1-04-18. Surcharge For Noncompliant Class 1 Food Service Establishments. Class 1 FSEs that do not install a grease interceptor may pay a monthly surcharge based on the increased costs due to the accelerated cleaning frequency of the collection system, additional treatment of these wastes and/or the savings incurred for not installing a grease interceptor. A comprehensive study will be undertaken to collect and evaluate data to determine a surcharge process that will be applied equitably.

*(Ord. 5575, 03-13-07)*

11.1-04-19. Severability. In the event that any provision of this chapter is held to be invalid, illegal, unconstitutional or unenforceable under the laws of the State of North Dakota or the United States of America, such defect shall not affect the validity of the remaining provisions of this chapter which can be given effect without the defective provision or of this chapter as a whole. To this end, the provisions of this chapter are declared severable.

*(Ord. 5575, 03-13-07)*

11.1-04-20. Enforcement. In the event that a FSE fails to maintain a grease removal device as required in this chapter, the FSE shall be given a seven day notice to perform the maintenance required by this chapter on the grease removal device. If after the seven day notice, the grease removal device is not serviced, the City may order the work to be performed by an approved contractor. The cost of the work shall be billed to the FSE. If the FSE fails to pay the full amount of the bill, the outstanding amount may be assessed against the property where the maintenance was performed.

*(Ord. 5575, 03-13-07)*

11.1-04-21. Administrative Fees. No fee will be charged for an annual inspection. However, if the Food Service Establishment's grease removal device is not in compliance with this Ordinance, a \$50.00 re-inspection fee may be charged for each inspection thereafter until compliance is achieved.

*(Ord. 5575, 03-13-07)*

#### CHAPTER 11.1-05. WASTEWATER SERVICE CHARGE; FEES

11.1-05-01. Audit. An annual audit of expenses and revenue shall be made at the end of each fiscal year by the board. If upon review of the annual audit the Board deems it necessary, the rates described herein shall be adjusted accordingly to meet

the needs of the annual audit with said adjustment to be made by appropriate resolution by the board.

*(Ord. 5575, 03-13-07)*

11.1-05-02. Wastewater Service Charges. The following charges for the use and service of the wastewater treatment works, sanitary sewer system of the City of Bismarck are hereby established. Such charges shall be made against such lot, parcel of land, or premises that have a sewer connection in the sanitary sewer system in the City of Bismarck or that may otherwise discharge sewage or waste, either directly or indirectly in the sewer system or any part thereof. Such charges shall be established by resolution of the board.

1. Basis for Wastewater Service Charges. The wastewater service charge for the use of and for service supplied by the wastewater facilities of the city shall consist of a basic user charge for operation and maintenance plus replacement, and a debt service charge.

2. Industrial Charge. An industrial wastewater charge will be levied to all users whose waters exceed the normal concentrations for Total BOD (250 mg/l) or SS (250 mg/l) or a rate of flow that has a significant impact on the wastewater treatment plant. The charge will be based on water usage as recorded by water meters and/or wastewater meters for all wastes which exceed the limitations stated above.

3. Basic Wastewater Treatment Charge. The basic user charge shall be based on water usage as recorded by water meters and/or wastewater meters having normal concentrations less than the following: Total BOD (250 mg/l) or SS (250 mg/l).

*(Ord. 5575, 03-13-07)*

11.1-05-03. Purpose. It is the purpose of this section to provide for the recovery of costs from users of the city's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the city's Schedule of Charges and Fees to be prepared from time to time by the director and city engineer.

1. Charges and Fees. The board shall establish charges and fees which may include:

a. Charges for monitoring, inspections and surveillance procedures;

b. Fees for permit applications;

c. Appeal fees; and

d. Other fees and/or charges as the Board may deem necessary to carry out the requirements of this title.

(Ord. 5575, 03-13-07)

#### CHAPTER 11.1-06. ADMINISTRATION

11.1-06-01. Wastewater Discharges. It is unlawful to discharge sewage, industrial wastes or other wastes to any sewer outlet within the jurisdiction of the city, and/or to the wastewater disposal system without having first complied with the terms of this ordinance.

11.1-06-02. Wastewater Discharge Permits.

1. Mandatory Permits. All significant industrial users proposing to connect or to commence a new discharge to the wastewater disposal system shall obtain a Wastewater Discharge Permit before connecting to or discharging into the wastewater system. All existing significant industrial users or industrial users subject to Federal Pretreatment Standards under Section 307(b) and (c) of the Act connected to or discharging into the wastewater system shall obtain a Wastewater Discharge Permit within 90 days after the effective date of this ordinance.

2. Permit Applications. All industrial users shall complete and file with the pretreatment coordinator an application in the form prescribed by the pretreatment coordinator and accompanied by a fee set by the board. Existing industrial users shall apply for a Wastewater Discharge Permit Application within 30 days after the effective date of this ordinance and proposed new users shall apply at least 90 days prior to connecting or discharging to the wastewater disposal system. All permit applications shall include the following:

a. Name, address and location (if different from the address);

b. SIC number according to the Standard Industrial Classification Manual;

c. Wastewater constituents and characteristics, including but not limited to those governed by Chapter 11.1-03 of this title, as determined by an analytical laboratory certified by the EPA or a designated state agency. Sampling and analysis shall be performed in accordance with procedures established by the Act and contained in Section 304(g) of the Act;

d. Time and duration of discharge;

e. Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variation, if any;

f. Site plans, floorplans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by size, location and elevation;

g. Description of activities, facilities and plant processes on the premises, including all material that is or could be discharged;

h. If known, the nature and concentration of any pollutants in the discharge that are limited by the City, State or Federal Pretreatment Standard, and (for existing dischargers) a statement regarding whether the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

i. Each product produced by type, amount and rate of production;

j. Type and amount of raw materials processed (average and maximum per day);

k. Number of full and part time employees, and hours of work;

l. Any other information as may be deemed by the pretreatment coordinator to be necessary to evaluate the permit application.

The pretreatment coordinator will evaluate the data furnished by the industrial user and may require additional information. After evaluation and acceptance of the data furnished, the director may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

3. Permit Conditions. Wastewater Discharge Permits are expressly subject to all provisions of this title and all other applicable regulations, user charges and fees established by the city. Permits may contain the following:

a. The unit charge or schedule of user charges and fees for the wastewater to be discharged to the wastewater disposal system;

b. Limits on the average and maximum wastewater constitutes and characteristics;

c. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

d. Requirements for installation and maintenance of inspection and sampling facilities;

e. Requirements for installation, operation and maintenance of pretreatment facilities;

f. Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number types standard for tests and reporting schedule;

g. Compliance schedule;

h. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the pretreatment coordinator and affording pretreatment coordinator access thereto;

i. Requirements of submission of technical reports or discharge reports;

j. Requirements for notification to and acceptance by the pretreatment coordinator of any new introduction of wastewater constituents or of any substantial change in the volume or characteristic of the wastewater;

k. Requirements for disposal of sludges, floats, skimmings, etc.

l. Other conditions as deemed appropriate by the pretreatment coordinator to ensure compliance with this title.

4. Permit Duration. Permits must be issued for a specified period, not to exceed five years. The user shall apply for permit reissuance a minimum of 90 days prior to the expiration of the User's existing permit. The terms and conditions of the permit may be subject to modification by the director during the term of the permit as limitations or

Requirements as identified in Chapter 11.1-03 are modified or other just cause exists. The user must be informed of any proposed changes in the permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

5. Permit Modification. Permits may be modified for just cause upon thirty days notice. Just cause shall include but not be limited to:

a. Promulgation of a new applicable National Categorical Pretreatment Standard;

b. Changes in the requirements of this ordinance;

c. Changes in the processes used by the permittee or changes in discharge volume or character;

d. Changes in design or capability of receiving wastewater treatment facility.

6. Permit Transfer. Permits are not transferable.

7. User Reports. The pretreatment coordinator may require any industrial user discharging or proposing to discharge wastewater to the wastewater system to file a periodic discharge report. Such information and time period of the report shall be made a condition of the discharge permit. It may contain but not be limited to process, flow conditions, and character of the wastewater, and compliance reports.

8. Monitoring Facilities. The pretreatment coordinator may require that the industrial discharger provide and operate at the discharger's expense a monitoring facility to allow inspection, sampling, and flow measurements of each sewer discharge to the wastewater treatment system. Where at all possible the monitoring facility shall be located on the premises of the discharger. There must be ample room to allow accurate flow measuring and sampling and the facility shall be kept in a safe and proper operating condition.

9. Inspection and Sampling. The pretreatment coordinator or his authorized agent may inspect the monitoring facilities of any discharger to determine compliance with the requirements of this title. The user shall allow the pretreatment coordinator or his representative to enter upon the premises at all reasonable

hours for the purpose of inspection, sampling or records examination. The pretreatment coordinator shall be allowed to set up equipment on the discharger's premises as required for the purpose of collecting samples and flow recording.

10. Confidential Information. Any information submitted to the pretreatment coordinator and claimed as confidential pursuant to federal regulations must be treated as confidential. Information and data furnished to the pretreatment coordinator pursuant to federal regulations which is effluent data is available to the public without restriction. All other information must be available to the public without restriction unless inconsistent with federal law or regulations.

*(Ord. 5269, 08-12-03)*

#### CHAPTER 11.1-07. ENFORCEMENT

11.1-07-01. Compliance Actions. In addition to the other enforcement authority contained in this chapter, the Director or the Pretreatment Coordinator may give oral warnings, issue warning letters, issue written notices of violation, require sampling or re-sampling, require the development of corrective action plans by the user, issue administrative orders, or take any other action necessary to facilitate user compliance with this title or any other applicable rule or regulation.

*(Ord. 5016, 11-09-99)*

11.1-07-02. Revocation of Permit. A permit may be revoked by the board, following notice and an opportunity for a hearing, for just cause, including but not limited to any one or more of the following: (a) violation of any terms or conditions of the Industrial Waste Permit; (b) false statements in any required report; (c) obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; (d) any other violation of this title. Notice shall be given and a hearing provided in accordance with Sections 11.1-07-03 and 11.1-07-04.

*(Ord. 5016, 11-09-99)*

11.1-07-03. Notification. Whenever the director finds that any person has violated or is violating this title, a Wastewater Discharge Permit, or any prohibition, limitation or requirement contained herein, the director may serve upon such person a written notice stating the nature of the violation and the Director's proposed enforcement action. Within 30 days of the date of the notice, unless a shorter time frame is necessary due to the nature of the violation, a plan for the satisfactory correction thereof must be submitted by such person to the Director. If the Director finds the plan to be acceptable, the Director shall notify the user, in writing, to implement the plan.

(Ord. 5016, 11-09-99)

11.1-07-04. Show Cause Hearing. If the violation is not corrected by timely compliance, the director may order any user who causes or allows an unauthorized discharge or other violation to appear and show cause before the board why the proposed enforcement action or revocation should not be taken. A notice must be served on the user specifying the time and place of a hearing to be held by the board regarding the enforcement action or revocation, and directing the user to show cause before the board why the proposed enforcement action or revocation should not be taken. The notice must be served personally or by registered or certified mail at least ten days before the hearing. Service of Notice may be made on any agent or officer of a corporation. The Board may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the City to act on behalf of the Board. At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically or electronically. The proceedings at the hearing shall be considered by the board which shall then enter appropriate orders with respect to the alleged improper activities of the user. The Board may make any order authorized by this Title up to and including termination of service. In addition, the Board may levy administrative penalties not to exceed one thousand dollars (\$1000.00) for each unauthorized discharge or noncompliance for each day that such violation continues. Any administrative penalty imposed by the Board shall be exclusive of any criminal action that the City may bring against a violator. Appeal of such orders may be taken by the user in accordance with applicable law.

(Ord. 5016, 11-09-99)

11.1-07-04.1. Emergency Suspension of Service and Discharge Permits. The Director may suspend the wastewater treatment service and the Wastewater Discharge Permit of a user when it appears to the Director that any one or more of the following is true: there is; (a) an actual or threatened discharge that presents or may present an imminent or substantial danger to the health or welfare of persons;(b) a substantial danger to the environment; (c) interference with the operation of the wastewater treatment facility; (d) a violation of any pretreatment limits imposed by this title or any Wastewater Discharge Permit issued pursuant to this title. If a user is notified of a violation and a suspension of services and/or the discharge permit and the user fails to immediately comply voluntarily with the suspension order, the Director shall commence whatever steps are necessary to obtain compliance including, but not limited to, severance of the discharge sewer and/or judicial proceedings. The Director shall reinstate the service and discharge permit upon proof of elimination of the non-complying discharge creating the threat of imminent or

substantial damage and upon payment by the user of all of the City's costs incurred as a result of the violation. A detailed written statement submitted by the user describing the causes of the slug or accidental discharge and the measures taken to prevent any future occurrence shall be submitted to the director by the user within 15 days of the date of the occurrence.

Whenever the Director suspends service or the permit of a user pursuant to the emergency provisions of this section, the Director shall serve notice of his/her action on the user personally or by registered mail or certified mail. The user has a right to appeal the Director's action at an informal hearing before the Director upon a request made in writing and filed with the Director. The informal hearing must be held within five days of the request. Following the hearing, the Director may affirm, modify or rescind the action.

Any user dissatisfied with an order of the Director issued pursuant to this section may request a hearing before the Board by filing a written request for a hearing before the Board with the Director. The hearing must be held within fifteen days of receipt of the request, whereupon the Board may affirm, modify or rescind the order. A request for a hearing filed pursuant to this section does not stay the action appealed pending the hearing.

*(Ord. 5016, 11-09-99)*

11.1-07-05. Legal Action. If any person discharges sewage, industrial wastes, or other wastes into the city's Wastewater Disposal System contrary to the provisions of this title, federal or state pretreatment requirements or any order of the city, the city attorney may, following the authorization of such action by the Board, commence action for appropriate legal and/or equitable relief.

*(Ord. 5016, 11-09-99)*

11.1-07-06. Annual Publications. A list of all industrial users that were in significant noncompliance with applicable pretreatment requirements during the previous twelve months shall be published annually in the largest daily newspaper published in the City. "Significant noncompliance" shall be as defined below:

An industrial user is in significant noncompliance if its violation meets one or more of the following criteria:

- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all the measurements taken during a six month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOC, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH).

(c) Any other violation of a pretreatment effluent limit (DAILY maximum or longer-term average) that the City determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of City personnel or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the City's exercise of its emergency authority under paragraph (f)(1)(vi)(B) of this section to halt or prevent such a discharge.

(e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance;

(h) Any other violation or group of violations which the City determines will adversely affect the operation or implementation of the local pretreatment program.

*(Ord. 4451, 08-04-92)*

#### CHAPTER 11.1-08. PENALTIES

11.1-08-01. Violations. Any user who is found to have violated an order of the Board made in accordance with this title, or who has failed to comply with any provision of this title and the orders, rules, regulations and permits issued hereunder, shall be fined not more than one thousand dollars (\$1000.00) for each violation. In addition, any person who

violates any provision of this Title is guilty of an offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct violation.

*(Ord. 5016, 11-09-99)*

11.1-08-02. Costs of Damage. Any user violating any of the provisions of this title or who has a discharge which causes a deposit, obstruction, damage or other impairment to the city's Waste Water Disposal System must become liable to the city for any expense, loss, or damage or any increase in treatment or monitoring costs caused by the violation or the discharge. The Director may add to the user's charges and fees the costs assessed for any cleaning, repair or replacement work or costs associated with increased monitoring by the City caused by the violation or discharge.

*(Ord. 5016, 11-09-99)*

11.1-08-03. City's Attorney Fees and Costs. In addition to the administrative penalties provided herein, the city may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate action against the person found to have violated this title or the orders, rules, regulations and permits issued hereunder.

*(Ord. 5016, 11-09-99)*

11.1-08-04. Falsifying Information. In addition to any administrative penalties, any person who knowingly makes any false statements, representation or certification in any applicable record, report, plan or other document filed or required to be maintained pursuant to this title, or Wastewater Discharge Permit, or who knowingly falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter, shall be guilty of an offense.

*(Ord. 5016, 11-09-99)*

11.1-08-05. Penalties. Repealed.

*(Ordinance 4383, 07-02-91; Ord. 5016, 11-09-99)*