

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 12.5, “ENVIRONMENTAL PROTECTION AND COMPLIANCE,” OF THE CODE OF THE CITY OF FORT WORTH, TEXAS (2015), AS AMENDED, BY AMENDING ARTICLE I, DIVISION 1, SECTION 12.5-103 TO REVISE THE DEFINITION OF NON-SIGNIFICANT CATEGORICAL INDUSTRIAL USER; RETITLING ARTICLE VI, DIVISION 2, SECTION 12.5-610 TO RENAME THE FORT WORTH VILLAGE CREEK WASTEWATER TREATMENT FACILITY; RETITLING ARTICLE VI, DIVISION 2, SECTION 12.5-610.1 TO RENAME THE TRINITY RIVER AUTHORITY CENTRAL REGIONAL WASTEWATER TREATMENT FACILITY; RETITLING ARTICLE VI, DIVISION 2, SECTION 12.5-610.2 TO RENAME THE TRINITY RIVER AUTHORITY DENTON CREEK WASTEWATER TREATMENT FACILITY; AMENDING ARTICLE VI, DIVISION 2, SECTION 12.5-610.1 TO REVISE THE PROHIBITIONS AND LIMITS FOR DISCHARGES TO THE TRINITY RIVER AUTHORITY CENTRAL REGIONAL WASTEWATER SYSTEM; AMENDING ARTICLE VI, DIVISION 6, SECTIONS 12.5-654 AND 12.5-654.1 TO REVISE REGULATIONS PERTAINING TO PERIODIC COMPLIANCE REPORTS FOR FACILITIES DISCHARGING TO THE CITY OF FORT WORTH VILLAGE CREEK WATER RECLAMATION FACILITY AND TRINITY RIVER AUTHORITY CENTRAL REGIONAL WASTEWATER SYSTEM, AND ADDING SECTION 12.5-654.2 TO CLARIFY PERIODIC COMPLIANCE REPORTING REQUIREMENTS FOR FACILITIES DISCHARGING TO THE TRINITY RIVER AUTHORITY DENTON CREEK REGIONAL WASTEWATER SYSTEM; AMENDING ARTICLE VI, DIVISION 7, SECTIONS 12.5-671 AND 12.5-671.1 TO REVISE REGULATIONS PERTAINING TO PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE FOR FACILITIES DISCHARGING TO THE VILLAGE CREEK WATER RECLAMATION FACILITY AND THE TRINITY RIVER AUTHORITY CENTRAL REGIONAL WASTEWATER SYSTEM, AND ADDING SECTION 12.5-671.2 TO CLARIFY REGULATIONS FOR PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE FOR FACILITIES DISCHARGING INTO THE TRINITY RIVER AUTHORITY DENTON CREEK REGIONAL WASTEWATER SYSTEM; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER OF THE CITY; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Pretreatment Division of the Fort Worth Water Department operates a

program designed to prevent the introduction of pollutants into the City’s wastewater system that will interfere with its operation; and

**WHEREAS**, the purposes of the pretreatment program include protecting the health and safety of City personnel and the general public, protecting the Publicly Owned Treatment Works, promoting the reuse and recycling of industrial wastewater and sludge, and enabling the City to comply with federal and state regulations; and

**WHEREAS**, pursuant to Section 12.5-610 of the City Code, local pollutant limits on industrial discharge are established and permits for certain significant discharges are required to protect the health and safety of the City’s wastewater and system; and

**WHEREAS**, the definition of Non-Significant Categorical Industrial Users in Section 12.5-103 of the City Code requires updating to reflect the recent name change of the City’s Village Creek wastewater treatment plant as the Village Creek Water Reclamation Facility, and to include the Trinity River Authority Central Regional Wastewater System and the Trinity River Authority Denton Creek Regional Wastewater System; and

**WHEREAS**, the titles for Sections 12.5-610.1 and 12.5-610.2 require updating to reflect the correct names of the Trinity River Authority Central Regional Wastewater System and the Trinity River Authority Denton Creek Regional Wastewater System.

**WHEREAS**, the Texas Commission on Environmental Quality (“TCEQ”), at the request of the Trinity River Authority, has removed the specific prohibition for total toxic organic materials for the Trinity River Authority Central Regional Wastewater System; and

**WHEREAS**, the local limits for wastewater discharge into the Trinity River Authority Central Regional Wastewater System need to be amended based on new calculations performed by the Trinity River Authority, and approved by the TCEQ; and

**WHEREAS**, TCEQ approved the Trinity River Authority’s request to implement pretreatment streamlining provisions regarding the deadline for industrial users who discharge wastewater to the Trinity River Authority Central Regional Wastewater System to be subject to the same reporting requirements as industrial users who discharge wastewater to the City’s Village Creek Water Reclamation Facility; and

**WHEREAS**, creating a new section of the City Code for the Trinity River Authority Denton Creek Regional Wastewater System would facilitate these amendments regarding streamlining provisions, in addition to any future amendments involving the Trinity River Authority Denton Creek Regional Wastewater System.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS THAT:**

## SECTION 1.

Chapter 12.5, “Environmental Protection and Compliance,” Article I “Administration and Enforcement,” Division 1, “General Provisions,” Section 12.5-103 “Definitions” of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby amended by amending the definition of “Non-Significant Categorical Industrial User” to be and read as follows:

**NON-SIGNIFICANT CATEGORICAL INDUSTRIAL USER.** An industrial user that discharges ~~to~~ into the Village Creek Water Reclamation Facility or the Trinity River Authority Central Regional Wastewater System, and who is subject to categorical pretreatment standards and meets the following criteria, as determined solely by the director:

- (1) Has consistently complied with all applicable categorical pretreatment standards and requirements;
- (2) Annually submits the certification statement required in § 12.5-633(b) together with any additional information necessary to support the certification statement; and
- (3) Never discharges any categorical process wastewater into the sanitary sewer (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard).

## SECTION 2.

Chapter 12.5, “Environmental Protection and Compliance,” Article VI “Industrial Wastewater,” Division 2, “Discharge Prohibitions and Limitations,” Section 12.5-610 of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby amended to revise the title of the Section to be and read as follows:

**§ 12.5-610 DISCHARGES TO THE CITY OF FORT WORTH VILLAGE CREEK WATER RECLAMATION FACILITY.**

## SECTION 3.

Chapter 12.5, “Environmental Protection and Compliance,” Article VI “Industrial Wastewater,” Division 2, “Discharge Prohibitions and Limitations,” Section 12.5-610.1 of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby amended to revise the title of the Section to be and read as follows:

**§ 12.5-610.1 DISCHARGES TO THE TRINITY RIVER AUTHORITY CENTRAL REGIONAL WASTEWATER SYSTEM.**

#### SECTION 4.

Chapter 12.5, "Environmental Protection and Compliance," Article VI "Industrial Wastewater," Division 2, "Discharge Prohibitions and Limitations," Section 12.5-610.2 of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby amended to revise the title of the Section to be and read as follows:

#### **§ 12.5-610.2 DISCHARGES TO THE TRINITY RIVER AUTHORITY DENTON CREEK REGIONAL WASTEWATER TREATMENT SYSTEM.**

#### SECTION 5.

Chapter 12.5, "Environmental Protection and Compliance," Article VI "Industrial Wastewater," Division 2, "Discharge Prohibitions and Limitations," Section 12.5-610.1, Subsection (b) of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby amended to be and read as follows:

- (b) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Celsius) using the test methods specified in 40 CFR 261.21;
  - (2) Wastewater having a pH less than five and one-half (5.5) or more than eleven (11.0), or otherwise causing corrosive or structural damage to the POTW or equipment;
  - (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half ( 1/2) inch in any dimension or fats, oil and grease measured as total oil and grease in excess of two hundred (200) mg/l;
  - (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
  - (5) Wastewater having a temperature greater than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Celsius), 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 one hundred four (104) degrees Fahrenheit (forty (40) degrees Celsius);

- (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (8) Trucked or hauled waste except at discharge points designated by the director;
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair; hydrogen sulfide, sulfur dioxide or nitrous oxide in excess of ten (10) parts per million;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
- (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the director;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, except as specifically authorized by the director in a wastewater discharge permit;
- ~~(15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test; total toxic organics in excess of two and thirteen hundredths (2.13) mg/l collected as a grab sample.~~
- ~~(16)~~ (15) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW; or
- ~~(17)~~ (16) Swimming pool drainage from private residential pools. Swimming pool drainage from public and semi-public swimming pools may be discharged to the POTW with the prior consent of the director. Swimming pool filter backwash may be discharged to the POTW.

## SECTION 6.

Chapter 12.5, "Environmental Protection and Compliance," Article VI "Industrial

Wastewater,” Division 2, “Discharge Prohibitions and Limitations,” Section 12.5-610.1, Subsection (d) of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby amended to be and read as follows:

(d) *Local limits.*

- (1) The following local pollutant limits are established to protect against pass through and interference. The limits apply at the point where the wastewater is discharged to the POTW. The director may impose mass limitations in addition to, or in place of, the concentration-based limitations. All concentrations for metallic substances are for total metal unless indicated otherwise.
- (2) No person shall discharge wastewater containing pollutants in the form of compounds or elements with total concentrations exceeding the following:

| POLLUTANT  | Instantaneous Maximum Allowable Discharge Limit mg/L |
|--|--|
| Arsenic  | 0.2  |
| Cadmium  | 0.1  |
| Chromium, Total  | <del>2.9</del> <u>2.1</u>                            |
| Copper   | <del>2.3</del> <u>1.8</u>                            |
| Cyanide, Total <del>or cyanogen compounds</del><br>(expressed as total CN <sup>-</sup> ) | <del>0.5</del> <u>0.4</u>                            |
| Lead   | <del>0.9</del> <u>1.2</u>                            |
| Mercury  | <del>0.0004</del> <u>0.06</u>                        |
| Molybdenum   | <del>0.8</del> <u>0.5</u>                            |
| Nickel   | <del>4.6</del> <u>3.3</u>                            |
| Selenium   | <del>0.1</del> <u>0.2</u>                            |
| Silver   | 0.8  |
| Zinc   | <del>8.0</del> <u>6.1</u>                            |

## SECTION 7.

Chapter 12.5, “Environmental Protection and Compliance,” Article VI “Industrial Wastewater,” Division 6, “Reporting Requirements,” Section 12.5-654 of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby amended to be and read as follows:

### **§ 12.5-654 PERIODIC COMPLIANCE REPORTS FOR FACILITIES DISCHARGING TO THE CITY OF FORT WORTH VILLAGE CREEK WASTEWATER TREATMENT FACILITY WATER RECLAMATION FACILITY.**

- (a) All significant industrial users discharging to the City of Fort Worth Village Creek Water Reclamation Facility shall, at a frequency determined by the Director, but in no case less than twice per year (once in July covering the six-month period December 1 through May 31 and once in January covering the six-month period June 1 through November 30), submit a report to the Director containing at a minimum:
- (1) The nature and concentration of pollutants in the discharge which are limited by pretreatment standards;
  - (2) The measured or estimated average and maximum daily flows for the reporting period;
  - (3) In cases where the pretreatment standard requires compliance with a best management practice or pollution prevention alternative, the user must submit documentation required by city or the pretreatment standard necessary to determine the compliance status of the user; and
  - (4) Contributing information as is determined necessary to account for water usage, materials recovery or disposal practices.
- (b) All non-significant categorical industrial users (NSCIU) shall submit a report annually in the month specified by the director. The report shall be completed according to the city’s current reporting requirements, including the submittal of any applicable certification statements.
- (c) If the director has determined that a non-significant industrial user (NSIU) needs a permit, then the NSIU shall submit a report annually in the month specified by the director. The report shall be completed according to the city’s current reporting requirements, including the submittal of any applicable certification statements.
- (d) All periodic compliance reports shall be signed and certified in accordance with Section 12.5-633 of this Article.
- (e) All wastewater samples shall 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 equipment in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

- (f) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 C.F.R. Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
- (g) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director, using the procedures prescribed in Sections 12.5-610, 12.5-661, 12.5-641 and 12.5-663 of this article, the results of this monitoring along with chain-of-custody forms shall be included in the report.

## SECTION 8.

Chapter 12.5, “Environmental Protection and Compliance,” Article VI “Industrial Wastewater,” Division 6, “Reporting Requirements,” Section 12-5-654.1 of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby amended to be and read as follows:

### **§ 12.5-654.1 PERIODIC COMPLIANCE REPORTS FOR FACILITIES DISCHARGING TO THE TRINITY RIVER AUTHORITY CENTRAL REGIONAL WASTEWATER SYSTEM.**

- (a) All significant industrial users discharging to the Trinity River Authority Central Regional Wastewater System shall, at a frequency determined by the Director but in no case less than twice per year (once in July covering the six-month period December 1 through May 31 and once in January covering the six-month period June 1 through November 30), submit a report containing at a minimum:
  - (1) The nature and concentration of pollutants in the discharge which are limited by pretreatment standards;
  - (2) The measured or estimated average and maximum daily flows for the reporting period;
  - (3) In cases where the pretreatment standard requires compliance with a best management practice or pollution prevention alternative, the user must submit documentation required by city or the pretreatment standard necessary to determine the compliance status of the user; and
  - (4) Contributing information as is determined necessary to account for water usage, materials recovery or disposal practices.
- (b) All non-significant categorical industrial users (NSCIU) shall submit a report annually in the month specified by the director. The report shall be completed according to the city’s



current reporting requirements, including the submittal of any applicable certification statements.

(c) If the director has determined that a non-significant industrial user (NSIU) needs a permit, then the NSIU shall submit a report annually in the month specified by the director. The report shall be completed according to the city's current reporting requirements, including the submittal of any applicable certification statements.

(d) ~~(b)~~ All periodic compliance reports shall be signed and certified in accordance with § 12.5-633 of this Article.

(e) ~~(e)~~ All wastewater samples shall 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 equipment in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(f) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 C.F.R. Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(g) ~~(d)~~ If a user subject to the reporting requirement in this Section monitors any pollutant more frequently than required by the director, using the procedures prescribed in §§ 12.5-610.1, 12.5-610.2, 12.5-661, 12.5-641 and 12.5-663 of this Article, the results of this monitoring along with chain-of-custody forms shall be included in the report.

## SECTION 9.

Chapter 12.5, "Environmental Protection and Compliance," Article VI "Industrial Wastewater," Division 6, "Reporting Requirements," of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby amended to add Section 12.5-654.2 to be and read as follows:

### **§ 12.5-654.2 PERIODIC COMPLIANCE REPORTS FOR FACILITIES DISCHARGING TO THE TRINITY RIVER AUTHORITY DENTON CREEK REGIONAL WASTEWATER SYSTEM.**

(a) All significant industrial users discharging to the Trinity River Authority Denton Creek Regional Wastewater System shall, at a frequency determined by the director but in no case less than twice per year (once in July covering the six-month period December 1 through May 31 and once in January covering the six-month period June 1 through November 30), submit a report containing at a minimum:

(1) The nature and concentration of pollutants in the discharge which are limited by pretreatment standards;

- (2) The measured or estimated average and maximum daily flows for the reporting period;
  - (3) In cases where the pretreatment standard requires compliance with a best management practice or pollution prevention alternative, the user must submit documentation required by city or the pretreatment standard necessary to determine the compliance status of the user; and
  - (4) Contributing information as is determined necessary to account for water usage, materials recovery or disposal practices.
- (b) All periodic compliance reports shall be signed and certified in accordance with § 12.5-633 of this Article.
  - (c) All wastewater samples shall 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 equipment in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
  - (d) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director, using the procedures prescribed in §§ 12.5-610.1, 12.5-610.2, 12.5-661, 12.5-641 and 12.5-663 of this Article, the results of this monitoring along with chain-of-custody forms shall be included in the report.

**SECTION 10.**

Chapter 12.5, “Environmental Protection and Compliance,” Article VI “Industrial Wastewater,” Division 7, “Compliance Monitoring and Enforcement,” Section 12.5-671 “Periodic Compliance Reports for Facilities Discharging to the City of Fort Worth Village Creek Wastewater Treatment Facility,” of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby amended to be and read as follows:

**§ 12.5-671 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE FOR FACILITIES DISCHARGING TO THE CITY OF FORT WORTH VILLAGE CREEK WATER RECLAMATION FACILITY**

- (a) The Director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the city a list of the users discharging to the City of Fort Worth Village Water Reclamation Facility which, during the previous 12 months, were in significant noncompliance (SNC) with applicable pretreatment standards and requirements. Significant industrial users are subject to the SNC criteria listed in subsections (b)(1) through (b)(8) below. Group II non-significant industrial users that have been issued a permit shall be subject to SNC criteria listed in subsections (b)(3) through (b)(8)

below. Group VI non-significant categorical industrial users shall be subject to SNC criteria listed in subsections (b)(3) through (b)(8) below. All other industrial users are subject to the SNC criteria listed in subsections (b)(3), (b)(4) and (b)(8) of this section.

(b) For purposes of this Section, the term **SIGNIFICANT NONCOMPLIANCE** shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66%) or more of wastewater measurements taken for the same pollutant parameter during a six-month period exceed a numeric pretreatment standard or requirement, including instantaneous limits for the same pollutant parameter by any amount;
- (2) 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-month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (3) Any other discharge violation of a pretreatment standard or requirement as defined by 40 C.F.R. § 403.3(l) (daily maximum, long-term average or a narrative standard) that the director determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- (4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the director's exercise of his or her emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within 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;
- (6) Failure to provide within 45 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic reports (such as self-monitoring reports), and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation(s) which may include a violation of best management practices, which the director determines will adversely affect the operation or implementation of the local pretreatment program.

## SECTION 11.

Chapter 12.5, “Environmental Protection and Compliance,” Article VI “Industrial Wastewater,” Division 7, “Compliance Monitoring and Enforcement,” Section 12.5-671.1 “Publication of Users in Significant Noncompliance for Facilities Discharging to the Trinity River Authority Wastewater Treatment Facility” of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby amended to be and read as follows:

### **§ 12.5-671.1 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE FOR FACILITIES DISCHARGING TO THE TRINITY RIVER AUTHORITY CENTRAL REGIONAL WASTEWATER SYSTEM.**

- (a) The Director shall have published annually, in ~~a the largest daily newspaper published in the city of general circulation that provides meaningful public notice within the jurisdictions served by the city,~~ a list of the users discharging to the City of Fort Worth Village Water Reclamation Facility which, during the previous 12 months, were in significant noncompliance (SNC) with applicable pretreatment standards and requirements. Significant industrial users are subject to the SNC criteria listed in subsections (b)(1) through (b)(8) below. Group II non-significant industrial users that have been issued a permit shall be subject to SNC criteria listed in subsections (b)(3) through (b)(8) below. Group VI non-significant categorical industrial users shall be subject to SNC criteria listed in subsections (b)(3) through (b)(8) below. All other industrial users are subject to the SNC criteria listed in subsections (b)(3), (b)(4) and (b)(8) of this section.
- (b) For purposes of this Section, the term *SIGNIFICANT NONCOMPLIANCE* shall mean:
- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66%) or more of wastewater measurements for the same pollutant parameter taken during a six-month period exceed ~~the daily maximum limit or average limit~~ a numeric pretreatment standard or requirement, including instantaneous limits for the same pollutant parameter by any amount;
  - (2) 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-month period equals or exceeds the product of the ~~daily maximum limit or the average limit~~ numeric pretreatment standard or requirement including instantaneous limits multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
  - (3) Any other discharge violation of a pretreatment standard or requirement as defined by 40 C.F.R. § 403.3(1)(daily maximum, long-term average or a narrative standard) that the director believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

- (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Director's exercise of his emergency authority to halt or prevent such a discharge;
- (5) 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;
- (6) Failure to provide within ~~thirty (30)~~ 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;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation which may include a violation of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the local pretreatment program.

## SECTION 12.

Chapter 12.5, "Environmental Protection and Compliance," Article VI "Industrial Wastewater," Division 7, "Compliance Monitoring and Enforcement," of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby amended to add Section 12.5-671.2 to be and read as follows:

**§ 12.5-671.2 PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE FOR FACILITIES DISCHARGING TO THE TRINITY RIVER AUTHORITY DENTON CREEK REGIONAL WASTEWATER SYSTEM.**

- (a) The Director shall have published annually, in the largest daily newspaper published in the city, a list of the users discharging to the Trinity River Authority Denton Creek Regional Wastewater System which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.
- (b) For purposes of this Section, the term **SIGNIFICANT NONCOMPLIANCE** shall mean:
  - (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
  - (2) 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-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

- (3) Any other discharge violation of a pretreatment standard or requirement as defined by 40 C.F.R. § 403.3(l) (daily maximum, long-term average or a narrative standard) that the director determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Director's exercise of his emergency authority to halt or prevent such a discharge;
- (5) 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;
- (6) Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation, which may include a violation of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the local pretreatment program.

### **SECTION 13.**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (2015), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

### **SECTION 14.**

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of Code of the City of Fort Worth which have accrued at the time of the effective date of this ordinance and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 15.**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 16.**

Any person, firm, or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

**SECTION 17.**

The City Secretary of the City of Fort Worth, is hereby directed to publish the caption, penalty clause, and effective date of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas as authorized by Section 52.013(a) of the Texas Local Government Code.

**SECTION 18.**

This ordinance shall take effect upon adoption and publication as required by law.

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
Kevin Anders  
Assistant City Attorney I

\_\_\_\_\_  
Jannette S. Goodall  
City Secretary

ADOPTED: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_