

ORDINANCE NO. 1142

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KELLER, TEXAS, AMENDING THE CITY OF KELLER CODE OF ORDINANCES BY AMENDING CHAPTER 19, WATER AND SEWERS, BY REPEALING ARTICLES V, VI, VIII, AND IX IN THEIR ENTIRETY; AND BY ADDING A NEW ARTICLE V, WASTEWATER PRETREATMENT PROGRAM, AND BY ADDING A NEW ARTICLE VI, STATEMENT OF PROHIBITED DISCHARGES TO WATERWAYS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING CIVIL AND CRIMINAL PENALTIES; DECLARING AN EMERGENCY; ESTABLISHING AN EFFECTIVE DATE; AND AUTHORIZING PUBLICATION.

WHEREAS, Federal regulation, 40 CFR 403, requires that a Pretreatment Program be developed for the Regional Wastewater System; and

WHEREAS, the Trinity River Authority of Texas, as the owner and operator of a Publicly Owned Treatment Works (POTWs), must comply with rule 40 CFR 403; and

WHEREAS, the City of Keller, as a contracting party of the Regional Wastewater System, has entered into an Amendatory Wastewater Contract with the Trinity River Authority of Texas whereby the City of Keller has enacted ordinances that are necessary to implement and enforce the National Pretreatment Standards; and

WHEREAS, 40 CFR 403.9 (b) requires a statement or resolution reflecting the endorsement or approval of the local boards or councils responsible for supervising and/or funding the POTW; and

WHEREAS, City of Keller, Texas, hereby endorses the implementation of a pretreatment program as required by 40 CFR 403 for the Regional Wastewater System with such program to continue as long as 40 CFR 403 remains in effect; and

1 WHEREAS, the proposed Wastewater Pretreatment program  
2 established a permit system for the discharge  
3 of industrial waste to the wastewater system;  
4 requiring compliance with State and Federal  
standards; and requiring industrial users to  
maintain certain standards of pretreatment and  
self monitoring.

5 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE  
6 CITY OF KELLER, TEXAS:

7 Section 1: THAT, the above findings are hereby found to  
8 be true and correct and are incorporated  
herein in their entirety.

9 Section 2: THAT, Chapter 19, Water and Sewers, of the  
10 City of Keller Code of Ordinances, be hereby  
11 amended by repealing Articles V, VI, VIII, and  
12 IX in their entirety and by adding a new  
Article V, Wastewater Pretreatment Program, to  
read as follows:

13 **"ARTICLE V. WASTEWATER PRETREATMENT PROGRAM**

14 **Section 19-600. Purpose and Policy.**

15 This Ordinance sets forth uniform  
16 requirements for users of the Publicly Owned  
17 Treatment Works for the City of Keller and  
18 enables Keller to comply with all applicable  
19 State and Federal laws, including the Clean  
Water Act (33 United States Code § 1251 et  
20 seq.) and the General Pretreatment Regulations  
(40 Code of Federal Regulations Part 403).  
The objectives of this Ordinance are:

- 21 (1) To prevent the introduction of pollutants  
22 into the Publicly Owned Treatment Works  
that will interfere with its operation;
- 23 (2) To prevent the introduction of pollutants  
24 into the Publicly Owned Treatment Works  
25 that will pass through the Publicly Owned  
26 Treatment Works, inadequately treated,  
into receiving waters, or otherwise be  
incompatible with the Publicly Owned  
Treatment Works;
- 27 (3) To protect both Publicly Owned Treatment  
28 Works personnel who may be affected by

1 wastewater and sludge in the course of  
2 their employment and the general public;

3 (4) To promote reuse and recycling of  
4 industrial wastewater and sludge from the  
Publicly Owned Treatment Works;

5 (5) To provide for fees for the equitable  
6 distribution of the cost of operation,  
7 maintenance, and improvement of the  
Publicly Owned Treatment Works; and

8 (6) To enable the Control Authority to comply  
9 with its National Pollutant Discharge  
10 Elimination System permit conditions,  
11 sludge use and disposal requirements, and  
any other Federal or State laws to which  
the Publicly Owned Treatment Works is  
subject.

12 This Ordinance shall apply to all users of  
13 the Publicly Owned Treatment Works. The  
14 ordinance authorizes the issuance of  
15 wastewater discharge permits; provides for  
16 monitoring, compliance, and enforcement  
17 activities; establishes administrative review  
procedures; requires user reporting; and  
provides for the setting of fees for the  
equitable distribution of costs resulting from  
the program established herein.

18 **Section 19-602. Administration.**

19 Except as otherwise provided herein,  
20 Director of Public Works shall administer,  
21 implement, and enforce the provisions of this  
22 ordinance. Any powers granted to or duties  
imposed upon the Director of Public Works may  
be delegated by the Director of Public Works  
to other personnel.

23 **Section 19-604. Abbreviations.**

24 The following abbreviations, when used in  
25 this Ordinance, shall have the designated  
26 meanings:  
27  
28

1	BOD	-	Biochemical Oxygen Demand
2	CFR	-	Code of Federal Regulations
3	COD	-	Chemical Oxygen Demand
4	EPA	-	U.S. Environmental Protection Agency
5			
6	gpd	-	gallons per day
7	mg/l	-	milligrams per liter
8	NPDES	-	National Pollutant Discharge Elimination System
9			
10	POTW	-	Publicly Owned Treatment Works
11	RCRA	-	Resource Conservation and Recovery Act
12			
13	SIC	-	Standard Industrial Classification
14	SIU	-	Significant Industrial User
15	TCEQ	-	Texas Commission on Environmental Quality
16			
17	TPDES	-	Texas Pollutant Discharge Elimination System
18			
19	TRA	-	Trinity River Authority
20	TSS	-	Total Suspended Solids
21	TTO	-	Total Toxic Organics
22	U.S.C.	-	United States Code

**Section 19-606. Definitions.**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated.

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

1 Approval Authority. The Regional Administrator  
2 of EPA, or the Director of a state agency  
3 delegated to act on EPA's behalf with an  
4 approved pretreatment program (e.g. Director  
5 of TCEQ).

6 Authorized Representative of the User.

7 (1) If the user is a corporation:

8 (a) The president, secretary,  
9 treasurer, or a vice-president of  
10 the corporation in charge of a  
11 principal business function, or  
12 any other person who performs  
13 similar policy or decision-making  
14 functions for the corporation; or

15 (b) The manager of one or more  
16 manufacturing, production, or  
17 operation facilities employing  
18 more than two hundred fifty (250)  
19 persons or having gross annual  
20 sales or expenditures exceeding  
21 twenty-five (25) million dollars  
22 (in second-quarter 1980 dollars),  
23 if authority to sign documents  
24 has been assigned or delegated to  
25 the manager in accordance with  
26 corporate procedures.

27 (2) If the user is a partnership or sole  
28 proprietorship: a general partner or  
proprietor, respectively.

(3) If the user is a Federal, State, or Local  
governmental facility: a director or  
highest official appointed or designated  
to oversee the operation and performance  
of the activities of the government  
facility, or their designee.

(4) The individuals described in paragraphs 1  
through 3, above, may designate another  
authorized representative if the  
authorization is in writing, the  
authorization specifies the individual or  
position responsible for the overall  
operation of the facility from which the  
discharge originates or having overall

responsibility for environmental matters for the company, and the written authorization is submitted to the City of Keller.

Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).

Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

City. The City of Keller, the City Council of Keller, or contracting party of the Trinity River Authority's Central Regional Wastewater System.

Composite Sample. A sample that is collected over time, formed either by continuous sampling or by mixing discrete samples. The sample may be composited either as a time composite sample: composed of discrete sample aliquots collected at constant time intervals providing a sample irrespective of stream flow; or as a flow proportional composite sample: collected either as a constant sample volume at time intervals proportional to flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant time interval between the aliquots.

Control Authority. Trinity River Authority of Texas as holder of the NPDES permit.

Director of Public Works and/or his Designee. The person designated by the City who is charged with certain duties and responsibilities by this Ordinance, or a duly authorized representative.

1 Environmental Protection Agency or EPA. The  
2 U.S. Environmental Protection Agency or, where  
3 appropriate, the Regional Water Management  
4 Division Director, or other duly authorized  
5 official of said agency.

6 Existing Source. Any source of discharge, the  
7 construction or operation of which commenced  
8 prior to the publication by EPA of proposed  
9 categorical pretreatment standards, which will  
10 be applicable to such source if the standard  
11 is thereafter promulgated in accordance with  
12 Section 307 of the Act.

13 Grab Sample. A sample which is taken from a  
14 waste stream without regard to the flow in the  
15 waste stream and over a period of time not to  
16 exceed fifteen (15) minutes.

17 Indirect Discharge or Discharge. The  
18 introduction of pollutants into the POTW from  
19 any non-domestic source regulated under  
20 Section 307(b), (c), or (d) of the Act.

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

23 Instantaneous Maximum Allowable Discharge  
24 Limit. The maximum concentration of a  
25 pollutant allowed to be discharged at any  
26 time, determined from the analysis of any  
27 discrete or composited sample collected,  
28 independent of the industrial flow rate and  
the duration of the sampling event.

Interference. A discharge, which alone or in  
conjunction with a discharge or discharges  
from other sources, inhibits or disrupts the  
POTW, its treatment processes or operations or  
its sludge processes, use or disposal; and  
therefore, is a cause of a violation of the  
Control Authority's NPDES permit or of the  
prevention of sewage sludge use or disposal in  
compliance with any of the following  
statutory/regulatory provisions or permits  
issued there under, or any more stringent  
State or Local regulations: Section 405 of  
the Act; the Solid Waste Disposal Act,  
including Title II commonly referred to as the  
Resource Conservation and Recovery Act (RCRA);

1 40 CFR 503 sludge regulations; any State  
2 regulations contained in any State sludge  
3 management plan prepared pursuant to Subtitle  
4 D of the Solid Waste Disposal Act and 30 TAC  
5 312; the Clean Air Act; the Toxic Substances  
6 Control Act; and the Marine Protection,  
7 Research, and Sanctuaries Act.

8 Medical Waste. Isolation wastes, infectious  
9 agents, human blood and blood products,  
10 pathological wastes, sharps, body parts,  
11 contaminated bedding, surgical wastes,  
12 potentially contaminated laboratory wastes,  
13 and dialysis wastes.

14 NPDES (National Pollutant Discharge Elimination  
15 System). National Pollutant Discharge  
16 Elimination System permit program of the  
17 Environmental Protection Agency, and/or the  
18 permit program of the state agency delegated  
19 to act on EPA's behalf with an approved  
20 pretreatment program (e.g. TPDES or Texas  
21 Pollutant Discharge Elimination System).

22 New Source.

23 (1) Any building, structure, facility, or  
24 installation from which there is (or  
25 may be) a discharge of pollutants, the  
26 construction of which commenced after  
27 the publication of proposed  
28 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:

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

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



1 (c) The production or wastewater  
2 generating processes of the  
3 building, structure, facility,  
4 or installation are  
5 substantially independent of an  
6 existing source at the same  
7 site. In determining whether  
8 these are substantially  
9 independent, factors such as the  
10 extent to which the new facility  
11 is integrated with the existing  
12 plant, and the extent to which  
13 the new facility is engaged in  
14 the same general type of  
15 activity as the existing source,  
16 should be considered.

17 (2) Construction on a site at which an  
18 existing source is located results in  
19 a modification rather than a new  
20 source if the construction does not  
21 create a new building, structure,  
22 facility, or installation meeting the  
23 criteria of Section (1)(b) or (c)  
24 above but otherwise alters, replaces,  
25 or adds to existing process or  
26 production equipment.

27 (3) Construction of a new source as  
28 defined under this paragraph has  
commenced if the owner or operator  
has:

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

(i) any placement, assembly, or  
installation of facilities  
or equipment; or

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

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

9 Non-contact Cooling Water. Water used for  
10 cooling which does not come into direct  
11 contact with any raw material, intermediate  
12 product, waste product, or finished product.

13 Normal Wastewater. Wastewater which the  
14 average concentration of suspended solids and  
15 five-day BOD does not exceed 250 mg/l each.

16 Pass Through. A discharge which exits the  
17 POTW into waters of the United States in  
18 quantities or concentrations which, alone or  
19 in conjunction with a discharge or discharges  
20 from other sources, is a cause of a violation  
21 of any requirement of the Control Authority's  
22 NPDES permit, including an increase in the  
23 magnitude or duration of a violation.

24 Person. Any individual, partnership, co-  
25 partnership, firm, company, corporation,  
26 association, joint stock company, trust,  
27 estate, governmental entity, or any other  
28 legal entity; or their legal representatives,  
agents, or assigns. This definition includes  
all Federal, State, and Local governmental  
entities.

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

Pollutant. Dredged spoil, solid waste,  
incinerator residue, filter backwash, sewage,  
garbage, sewage sludge, munitions, medical  
wastes, chemical wastes, biological materials,  
radioactive materials, heat, wrecked or  
discarded equipment, rock, sand, cellar dirt,

1 municipal, agricultural and industrial wastes,  
2 and certain characteristics of wastewater  
3 (e.g., pH, temperature, TSS, turbidity, color,  
4 BOD, COD, toxicity, or odor).

5 Pretreatment. The reduction of the amount of  
6 pollutants, the elimination of pollutants, or  
7 the alteration of the nature of pollutant  
8 properties in wastewater prior to, or in lieu  
9 of, introducing such pollutants into the POTW.  
10 This reduction or alteration can be obtained  
11 by physical, chemical, or biological  
12 processes; by process changes; or by other  
13 means, except by diluting the concentration of  
14 the pollutants unless allowed by an applicable  
15 pretreatment standard.

16 Pretreatment Requirements. Any substantive or  
17 procedural requirement related to pretreatment  
18 imposed on a user, other than a pretreatment  
19 standard.

20 Pretreatment Standards or Standards.  
21 Pretreatment standards shall mean prohibited  
22 discharge standards, categorical pretreatment  
23 standards, and local limits.

24 Prohibited Discharge Standards or Prohibited  
25 Discharges. Absolute prohibitions against the  
26 discharge of certain substances; these  
27 prohibitions appear in Section 19-608 of this  
28 Ordinance.

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

Septic Tank Waste. Any sewage from holding  
tanks such as vessels, chemical toilets,  
campers, trailers, and septic tanks.

Sewage. Human excrement and gray water

(household showers, dishwashing operations, etc.).

Shall is mandatory; May is permissive.

Significant Industrial User.

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

(a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown wastewater);

(b) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by the City of Keller on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon a finding that a user meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the City of Keller may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Slug Load or Slug. Any discharge at a flow rate or concentration, which could cause a

violation of the prohibited discharge standards in Section 19-608 of this Ordinance.

Standard Industrial Classification (SIC) Code. A classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Director of Public Works and/or his Designee. The person designated by the City who is charged with certain duties and responsibilities by this Ordinance, or a duly authorized representative.

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

Total Toxic Organics or TTO. The sum of the masses or concentration of the toxic organic compounds listed in 40 CFR 122 Appendix D, Table II, excluding pesticides, found in industrial users' discharge at a concentration greater than 0.01 mg/L. Only those parameters reasonably suspected to be present, to be determined by the Director of Public Works, if any, shall be analyzed for with non-categorical industries. With Categorical industries, TTOs will be sampled for as stipulated in the particular category or those parameters reasonably suspected to be present, to be determined by the Director of Public Works, where not stipulated.

User or Industrial User. A source of indirect discharge.

Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

1 Wastewater Treatment Plant or Treatment Plant.  
2 That portion of the POTW, which is designed to  
3 provide treatment of municipal sewage and  
4 industrial waste.

5 Water Remediation. The removal and sub  
6 sequential treatment of waters that may contain  
7 contamination from various sources including  
8 but not limited to: Underground Storage Tanks,  
9 Contaminated Structures, Spill Remediation  
10 Sites, etc., as approved by the Director of  
11 Public Works.

12 **Section 19-608. Prohibited Discharge**  
13 **Standards.**

14 (1) General Prohibitions. No user shall  
15 introduce or cause to be introduced  
16 into the POTW any pollutant or  
17 wastewater which causes pass through  
18 or interference. These general  
19 prohibitions apply to all users of the  
20 POTW whether or not they are subject  
21 to categorical pretreatment standards  
22 or any other National, State, or Local  
23 pretreatment standards or  
24 requirements.

25 (2) Specific Prohibitions. No user shall  
26 introduce or cause to be introduced  
27 into the POTW the following pollutants,  
28 substances, or wastewater:

(a) 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 140°F  
(60°C) using the test methods  
specified in 40 CFR 261.21;

(b) Wastewater having corrosive  
properties capable of causing  
damage or injury to structures,  
equipment and/or personnel of the  
POTW, as per the specific  
prohibition in the applicable  
local limits in Section 19-614.  
In no case shall wastewater

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containing a pH less than 5.0 be discharged unless the POTW is specifically designed to accommodate such discharges;

(c) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, blockage, or damage to the POTW;

(d) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(e) Wastewater having a temperature greater than 150°F (65°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);

(f) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(h) Trucked or hauled pollutants, except at discharge points designated by the Director of Public Works and the Control Authority in accordance with Section 19-628 of this Ordinance;

1 (i) Noxious or malodorous liquids,  
2 gases, solids, or other  
3 wastewater which, either singly  
4 or by interaction with other  
5 wastes, are sufficient to create  
6 a public nuisance or a hazard to  
7 life, or to prevent entry into  
8 the sewers for maintenance or  
9 repair;

10 (j) Wastewater which imparts color  
11 which cannot be removed by the  
12 treatment process, such as, but  
13 not limited to, dye wastes and  
14 vegetable tanning solutions,  
15 which consequently imparts color  
16 to the treatment plant's  
17 effluent, thereby violating the  
18 applicable NPDES permit;

19 (k) Wastewater containing any  
20 radioactive wastes or isotopes  
21 except in compliance with  
22 applicable State or Federal  
23 regulations;

24 (l) Storm water, surface water,  
25 ground water, artesian well  
26 water, roof runoff, subsurface  
27 drainage, and unpolluted  
28 wastewater, unless specifically  
authorized by the Director of  
Public Works and the Control  
Authority;

(m) Sludges, screenings, or other  
residues from the pretreatment of  
industrial wastes;

(n) Medical wastes, except as  
specifically authorized by the  
Director of Public Works and/or  
the Control Authority in a  
wastewater discharge permit;

(o) Wastewater causing, alone or in  
conjunction with other sources,  
the treatment plant's effluent to  
fail a toxicity test;



- 1 (p) Detergents, surface-active  
2 agents, or other substances which  
3 may cause excessive foaming in  
4 the POTW;
- 5 (q) Fats, oils, or greases of animal  
6 or vegetable origin in  
7 concentrations greater than that  
8 specified in the applicable local  
9 limits in Section 19-614;
- 10 (r) A discharge of water, normal  
11 domestic wastewater, or  
12 industrial waste that which in  
13 quantity of flow exceeds, for a  
14 duration of longer than fifteen  
15 minutes, more than four times the  
16 average twenty four hour flow  
17 during normal operations of the  
18 industry;
- 19 (s) Insecticides and herbicides in  
20 concentrations that are not  
21 amenable to treatment;
- 22 (t) Polychlorinated biphenyls;
- 23 (u) Garbage that is not properly  
24 shredded to such an extent that  
25 all particles will be carried  
26 freely under the flow conditions  
27 normally prevailing in wastewater  
28 mains, with no particle having  
greater than one-half (1/2") inch  
cross-sectional dimension;
- (v) Wastewater or industrial waste  
generated or produced outside the  
City, unless approval in writing  
from the Director of Public Works  
and the Control Authority has been  
given to the person discharging  
the waste; or,
- (w) Without the approval of the  
Director of Public Works and the  
Control Authority, a substance or  
pollutant other than industrial  
waste, normal domestic  
wastewater, septic tank waste or

1 chemical toilet waste that is of  
2 a toxic or hazardous nature,  
3 regardless of whether or not it  
4 is amenable to treatment,  
including but not limited to bulk  
or packaged chemical products.

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

8 **Section 19-610. National Categorical**  
9 **Pretreatment Standards.**

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

12 (1) Where a categorical pretreatment  
13 standard is expressed only in terms of  
14 either the mass or the concentration  
15 of a pollutant in wastewater, the  
16 Director of Public Works may impose  
equivalent concentration or mass  
limits in accordance with 40 CFR  
403.6(c).

17 (2) When wastewater subject to a  
18 categorical pretreatment standard is  
19 mixed with wastewater not regulated by  
20 the same standard, the Director of  
Public Works shall impose an alternate  
limit using the combined waste stream  
formula in 40 CFR 403.6(e).

21 (3) A user may obtain a variance from a  
22 categorical pretreatment standard if  
23 the user can prove, pursuant to the  
24 procedural and substantive provisions  
25 in 40 CFR 403.13, that factors  
26 relating to its discharge are  
fundamentally different from the  
27 factors considered by EPA when  
28 developing the categorical  
pretreatment standard.

1 (4) A user may obtain a net gross  
2 adjustment to a categorical standard  
3 in accordance with 40 CFR 403.15.

4 **Section 19-612. Reserved.**

5 **Section 19-614. Local Limits.**

6 The following pollutant limits are  
7 established to protect against pass through  
8 and interference. No person shall discharge  
9 or cause or permit to be discharged,  
10 wastewater in excess of the following maximum  
11 allowable discharge limits in the following  
12 system(s):

13 0.1 mg/l arsenic  
14 1.0 mg/l barium  
15 0.1 mg/l cadmium  
16 1.0 mg/l chromium  
17 1.5 mg/l copper  
18 0.5 mg/l cyanide  
19 0.9 mg/l lead  
20 1.5 mg/l Maganese  
21 0.0004 mg/l mercury  
22 0.2 mg/l Molybdenum  
23 1.0 mg/l nickel  
24 100 mg/l oil and grease  
25 0.05 mg/l selenium  
26 0.1 mg/l silver  
27 2.0 mg/l zinc  
28 1.0 mg/l TTO  
0.1 mg/l Hydrogen sulfide, sulfur dioxide  
or nitrous oxide  
6.0 pH 10.0

The above limits apply at the point where the  
wastewater is discharged to the POTW. All  
concentrations for metallic substances are for  
"total" metal unless indicated otherwise. The  
Director of Public Works may impose mass  
limitations in addition to, or in place of,  
the concentration-based limitations above.

1                   **Section 19-616. City's Right of Revision**

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

5                   **Section 19-618. Dilution.**

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

13                  **Section 19-620. Plant Loading.**

14                  No industry shall discharge wastewater  
15                  containing a BOD or TSS loading that causes  
16                  the City's pro-rata share of the total BOD or  
17                  TSS loading to the POTW System to exceed the  
18                  City's pro-rata share of the total flow to the  
19                  POTW System. (Example: If the City  
20                  contributes 25% of the total wastewater flow  
                  to the System, the City's cumulative BOD or  
                  TSS loading to the System, as measured at the  
                  City's points of entry to the System, shall  
                  not exceed 25% of the total BOD or TSS loading  
                  to the System.)

21                  Any industry with a wastewater strength that  
22                  will cause the City's cumulative wastewater  
23                  loading, at the City's points of entry, to  
24                  exceed the City's pro-rata share of the total  
25                  wastewater loading based upon flow, shall be  
26                  required to install pretreatment facilities to  
27                  reduce its wastewater strength to an  
28                  acceptable level.

**Section 19-622. Pretreatment Facilities.**

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 19-608 of this ordinance within the time limitations specified by EPA, the State, the Control Authority, or the director of Public Works, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Director of Public Works for review, and shall be acceptable to the Director of Public Works before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City of Keller under the provisions of this Ordinance.

**Section 19-624. Additional Pretreatment Measures.**

(1) Whenever deemed necessary, the Director of Public Works may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and require such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Ordinance.

(2) The Director of Public Works may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of

1 flow. A wastewater discharge permit  
2 may be issued solely for flow  
3 equalization.

4 (3) Grease, oil, and sand interceptors  
5 shall be provided when, in the opinion  
6 of the Director of Public Works, they  
7 are necessary for the proper handling  
8 of wastewater containing excessive  
9 amounts of grease and oil, or sand;  
10 except that such interceptors shall  
11 not be required for residential users.  
12 All interception units shall be of  
13 type and capacity approved by the  
14 director of Public Works and shall be  
15 so located to be easily accessible for  
16 cleaning and inspection. Such  
17 interceptors shall be inspected,  
18 cleaned, and repaired regularly, as  
19 needed, by the user at their expense.

20 (4) Users with the potential to discharge  
21 flammable substances may be required  
22 to install and maintain an approved  
23 combustible gas detection meter, or  
24 other control device as deemed  
25 necessary by the Director of Public  
26 Works.

27 **Section 19-626. Accidental Discharge/Slug**  
28 **Control Plans.**

At least once every two (2) years, the  
Director of Public Works shall evaluate  
whether each permitted significant industrial  
user needs an accidental discharge/slug  
control plan. The Director of Public Works  
may require any user to develop, submit for  
approval, and implement such a plan. An  
accidental discharge/slug control plan shall  
address, at a minimum, the following:

(1) Description of discharge practices,  
including non-routine batch  
discharges;

(2) Description of stored chemicals;

1 (3) Procedures for immediately notifying  
2 the Director of Public Works and  
3 Control Authority of any accidental or  
4 slug discharge, as required by Section  
5 19-668 of this Ordinance; and

6 (4) Procedures to prevent adverse impact  
7 from any accidental or slug discharge.  
8 Such procedures include, but are not  
9 limited to, inspection and maintenance  
10 of storage areas, handling and  
11 transfer of materials, loading and  
12 unloading operations, control of plant  
13 site runoff, worker training, building  
14 of containment structures or  
15 equipment, measures for containing  
16 toxic organic pollutants, including  
17 solvents, and/or measures and  
18 equipment for emergency response.

19 **Section 19-628. Hauled Wastewater.**

20 (1) Septage waste may be introduced into  
21 the POTW only at locations designated  
22 by the Director of Public Works and  
23 Control Authority, and at such times  
24 as are established by the Director of  
25 Public Works and Control Authority.  
26 Such waste shall not violate Section 2  
27 of this ordinance or any other  
28 requirements established by the City  
of Keller. The Director of Public  
Works and/or Control Authority may  
require septic tank waste haulers to  
obtain wastewater discharge permits.

(2) Septage waste haulers must provide a  
waste-tracking form for every load.  
This form shall include, at a minimum,  
the name and address of the waste  
hauler, permit number, truck  
identification, names and addresses of  
sources of waste, and volume and  
characteristics of waste. The form  
shall identify the type of generator,  
known or suspected waste constituents,  
and whether any wastes are RCRA  
hazardous wastes.

**Section 19-630. Wastewater Analysis.**

When requested by the Director of Public Works, a user must submit information on the nature and characteristics of its wastewater by the deadline stipulated. The Director of Public Works is authorized to prepare a form for this purpose and may periodically require users to update this information.

**Section 19-632. Wastewater Discharge Permit Required.**

- (1) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director of Public Works, except that a significant industrial user that has filed a timely application pursuant to Section 19-634 of this Ordinance may continue to discharge for the time period specified therein.
- (2) The Director of Public Works may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this Ordinance.
- (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 19-690 through 19-718 of this Ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements with any other requirements of Federal, State, and Local law.



**Section 19-634. Wastewater Discharge  
Permitting: Existing Conditions.**

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this Ordinance and who wishes to continue such discharges in the future, shall, apply to the Director of Public Works for a wastewater discharge permit in accordance with Section 19-638 of this Ordinance, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Director of Public Works. If, in the Director of Public Works judgment, the passing of the Ordinance does not significantly affect the Industrial User's current permit, then the existing permit will continue through to the expiration date.

**Section 19-636. Wastewater Discharge  
Permitting: New Connections.**

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 19-638 of this Ordinance, must be filed prior to the date upon which any discharge will begin or recommence.

**Section 19-638. Wastewater Discharge Permit  
Application Contents.**

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

- (1) All information required by Section 19-658(2) of this Ordinance;

- 1 (2) Description of activities, facilities,  
2 and plant processes on the premises,  
3 including a list of all raw materials  
4 and chemicals used or stored at the  
5 facility which are, or could  
6 accidentally or intentionally be,  
7 discharged to the POTW;
- 8 (3) Number and type of employees, hours of  
9 operation, and proposed or actual  
10 hours of operation;
- 11 (4) Each product produced by type, amount,  
12 process or processes, and rate of  
13 production;
- 14 (5) Type and amount of raw materials  
15 processed (average and maximum per  
16 day);
- 17 (6) Site plans, floor plans, mechanical  
18 and plumbing plans, and details to  
19 show all sewers, floor drains, and  
20 appurtenances by size, location, and  
21 elevation, and all points of  
22 discharge;
- 23 (7) Time and duration of discharges; and
- 24 (8) Any other information as may be deemed  
25 necessary by the Director of Public  
26 Works to evaluate the wastewater  
27 discharge permit application.

28 Incomplete or inaccurate applications will not  
be processed and will be returned to the user  
for revision.

**Section 19-640. Application Signatories and  
Certification.**

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

"I certify under penalty of law that  
this document and all attachments  
were prepared under my direction or  
supervision in accordance with a

1 system designed to assure that  
2 qualified personnel properly gather  
3 and evaluate the information  
4 submitted. Based on my inquiry of  
5 the person or persons who manage the  
6 system, or those persons directly  
7 responsible for gathering the  
8 information, the information  
9 submitted is, to the best of my  
10 knowledge and belief, true, accurate,  
11 and complete. I am aware that there  
12 are significant penalties for  
13 submitting false information,  
14 including the possibility of fine and  
15 imprisonment for knowing violations."

16 **Section 19-642. Wastewater Discharge Permit**  
17 **Decisions.**

18 The Director of Public Works will evaluate  
19 the data furnished by the user and may require  
20 additional information. Within sixty (60)  
21 days of receipt of a complete wastewater  
22 discharge permit application, the Director of  
23 Public Works will determine whether or not to  
24 issue a wastewater discharge permit. The  
25 Director of Public Works may deny any  
26 application for a wastewater discharge permit.

27 **Section 19-644. Wastewater Discharge Permit**  
28 **Duration.**

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

**Section 19-646. Wastewater Discharge Permit**  
**Contents.**

A wastewater discharge permit shall include  
such conditions as are deemed reasonably  
necessary by the Director of Public Works to  
prevent pass through or interference, protect

1 the quality of the water body receiving the  
2 treatment plant's effluent, protect worker  
3 health and safety, facilitate sludge  
4 management and disposal, and protect against  
5 damage to the POTW.

6 (1) Wastewater discharge permits must  
7 contain:

8 (a) A statement that indicates  
9 wastewater discharge permit  
10 duration, which in no event shall  
11 exceed five (5) years;

12 (b) A statement that the wastewater  
13 discharge permit is  
14 nontransferable without prior  
15 notification to the City in  
16 accordance with Section 19-652 of  
17 this Ordinance, and provisions  
18 for furnishing the new owner or  
19 operator with a copy of the  
20 existing wastewater discharge  
21 permit;

22 (c) Effluent limits based on  
23 applicable pretreatment  
24 standards;

25 (d) Self monitoring, sampling,  
26 reporting, notification, and  
27 record-keeping requirements.  
28 These requirements shall include  
an identification of pollutants  
to be monitored, sampling  
location, sampling frequency, and  
sample type based on Federal,  
State, and Local law; and

(e) A statement of applicable civil  
and criminal penalties for  
violation of pretreatment  
standards and requirements, and  
any applicable compliance  
schedule. Such schedule may not  
extend the time for compliance  
beyond that required by  
applicable Federal, State, or  
Local law.

1 (2) Wastewater discharge permits may  
2 contain, but need not be limited to,  
3 the following conditions:

4 (a) Limits on the average and/or  
5 maximum rate of discharge, time  
6 of discharge, and/or requirements  
7 for flow regulation and  
8 equalization;

9 (b) Requirements for the installation  
10 of pretreatment technology,  
11 pollution control, or  
12 construction of appropriate  
13 containment devices, designed to  
14 reduce, eliminate, or prevent the  
15 introduction of pollutants into  
16 the treatment works;

17 (c) Requirements for the development  
18 and implementation of spill  
19 control plans or other special  
20 conditions including management  
21 practices necessary to adequately  
22 prevent accidental,  
23 unanticipated, or non-routine  
24 discharges;

25 (d) Development and implementation of  
26 waste minimization plans to  
27 reduce the amount of pollutants  
28 discharged to the POTW;

(e) The unit charge or schedule of  
user charges and fees for the  
management of the wastewater  
discharged to the POTW;

(f) Requirements for installation and  
maintenance of inspection and  
sampling facilities and  
equipment;

(g) A statement that compliance with  
the wastewater discharge permit  
does not relieve the permittee of  
responsibility for compliance  
with all applicable Federal and  
State pretreatment standards,  
including those which become

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effective during the term of the  
wastewater discharge permit; and

- (h) Other conditions as deemed appropriate by the Director of Public Works to ensure compliance with this Ordinance, and State and Federal laws, rules, and regulations.

**Section 19-648. Reserved.**

**Section 19-650. Wastewater discharge Permit Modifications**

The Director of Public Works may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) To incorporate any new or revised Federal, State, or Local pretreatment standards or requirements;
- (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to POTW, POTW personnel, or the receiving waters;
- (5) Violation of any terms or conditions of the wastewater discharge permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

- 1 (7) Revision of or a grant of variance  
2 from categorical pretreatment  
standards pursuant to 40 CFR 403.13;
- 3 (8) To correct typographical or other  
4 errors in the wastewater discharge  
permit; or
- 5 (9) To reflect a transfer of the facility  
6 ownership or operation to a new owner  
or operator.

7 **Section 19-652. Wastewater Discharge Permit**  
8 **Transfer**

9 Wastewater discharge permits may be  
10 transferred to a new owner or operator only if  
the permittee gives advance notice to The  
11 Director of Public Works and The Director of  
Public Works approves the wastewater discharge  
12 permit transfer. The notice to The Director  
of Public Works must include a written  
13 certification by the new owner or operator  
which:

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

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

1                   **Section 19-654. Wastewater Discharge Permit**  
2                   **Revocation**

3                   The Director of Public Works may revoke a  
4                   wastewater discharge permit for good cause,  
5                   including, but not limited to, the following  
6                   reasons:

- 7                   (1)     Failure to notify the Director of  
8                   Public Works of significant changes to  
9                   the wastewater prior to the changed  
10                  discharge;  
11                  (2)     Failure to provide prior notification  
12                  to the Director of Public Works of  
13                  changed conditions pursuant to Section  
14                  19-666 of this Ordinance;  
15                  (3)     Misrepresentation or failure to fully  
16                  disclose all relevant facts in the  
17                  wastewater        discharge        permit  
18                  application;  
19                  (4)     Falsifying self-monitoring reports;  
20                  (5)     Tampering with monitoring equipment;  
21                  (6)     Refusing to allow the Director of  
22                  Public Works timely access to the  
23                  facility premises and records;  
24                  (7)     Failure to meet effluent limitations;  
25                  (8)     Failure to pay fines;  
26                  (9)     Failure to pay sewer charges;  
27                  (10)    Failure to meet compliance schedules;  
28                  (11)    Failure to complete a wastewater  
                  survey or the wastewater discharge  
                  permit application;  
                  (12)    Failure to provide advance notice of  
                  the transfer of business ownership of  
                  a permitted facility; or



1 13) Violation of any pretreatment standard  
2 or requirement, or any terms of the  
3 wastewater discharge permit or this  
4 Ordinance.

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

12 **Section 19-656. Wastewater Discharge Permit**  
13 **Reissuance.**

14 A user with an expiring wastewater discharge  
15 permit shall apply for wastewater discharge  
16 permit reissuance by submitting a complete  
17 permit application, in accordance with Section  
18 19-638 of this ordinance, prior to the  
19 expiration of the user's existing wastewater  
20 discharge permit.

21 **Section 19-658. Baseline Monitoring Reports**

22 (1) Within either one hundred eighty (180)  
23 days after the effective date of a  
24 categorical pretreatment standard, or  
25 the final administrative decision on a  
26 category determination under 40 CFR  
27 403.6(a)(4), whichever is later,  
28 existing categorical users currently  
discharging to or scheduled to  
discharge to the POTW shall submit to  
the Director of Public Works a report  
which contains the information listed  
in paragraph (2), below. At least  
ninety (90) days prior to commencement  
of their discharge, new sources, and  
sources that will become categorical  
users subsequent to the promulgation  
of an applicable categorical standard,  
shall submit to the Director of Public  
Works a report which contains the  
information listed in paragraph (2),  
below. A new source shall report the  
method of pretreatment it intends to  
use to meet applicable categorical  
standards. A new source also shall

1 give estimates of its anticipated flow  
2 and quantity of pollutants to be  
3 discharged.

4 (2) Users described above shall submit the  
5 information set forth below.

6 (a) Identifying Information. The name  
7 and address of the facility,  
8 including the name of the  
9 operator and owner.

10 (b) Environmental Permits. A list of  
11 any environmental control permits  
12 held by or for the facility.

13 (c) Description of Operations. A brief  
14 description of the nature,  
15 average rate of production, and  
16 standard industrial  
17 classifications of the  
18 operation(s) carried out by such  
19 user. This description should  
20 include a schematic process  
21 diagram, which indicates points  
22 of discharge to the POTW from the  
23 regulated processes.

24 (d) Flow Measurement. Information  
25 showing the measured or estimated  
26 average daily and maximum daily  
27 flow, in gallons per day, to the  
28 POTW from regulated process  
streams and other streams, as  
necessary, to allow use of the  
combined waste stream formula set  
out in 40 CFR 403.6(e).

(e) Measurement of Pollutants.

(i) The categorical pretreatment  
standards applicable to each  
regulated process.

(ii) The results of sampling and  
analysis identifying the  
nature and concentration,  
and/or mass, where required  
by the standard or by the  
Director of Public Works, of

1 regulated pollutants in the  
2 discharge from each  
3 regulated process.  
4 Instantaneous, daily  
5 maximum, and long-term  
6 average concentrations, or  
7 mass, where required, shall  
8 be reported. The sample  
shall be representative of  
daily operations and shall  
be analyzed in accordance  
with procedures set out in  
Section 19-676 of this  
Ordinance.

9 (iii) Sampling must be performed  
10 in accordance with  
11 procedures set out in  
12 Section 19-678 of this  
Ordinance.

13 (g) Certification. A statement,  
14 reviewed by the user's authorized  
15 representative and certified by a  
16 qualified professional,  
17 indicating whether pretreatment  
18 standards are being met on a  
consistent basis, and, if not,  
whether additional operation and  
maintenance (O&M) and/or  
additional pretreatment is  
required to meet the pretreatment  
standards and requirements.

19 (h) Compliance Schedule. If  
20 additional pretreatment and/or  
21 O&M will be required to meet the  
22 pretreatment standards, the  
23 shortest schedule by which the  
24 user will provide such additional  
25 pretreatment and/or O&M. The  
26 completion date in this schedule  
27 shall not be later than the  
28 compliance date established for  
the applicable pretreatment  
standard. A compliance schedule  
pursuant to this section must  
meet the requirements set out in  
Section 19-660 of this Ordinance.

- 1 (i) Signature and Certification. All  
2 baseline monitoring reports must  
3 be signed and certified in  
4 accordance with Section 19-640 of  
5 this Ordinance.

6 **Section 19-660. Compliance Schedule Progress**  
7 **Reports**

8 The following conditions shall apply to the  
9 compliance schedule required by Section 19-658  
10 (2) (H) of this ordinance:

- 11 (1) The schedule shall contain progress  
12 increments in the form of dates for  
13 the commencement and completion of  
14 major events leading to the  
15 construction and operation of  
16 additional pretreatment required for  
17 the user to meet the applicable  
18 pretreatment standards (such events  
19 include, but are not limited to,  
20 hiring an engineer, completing  
21 preliminary and final plans, executing  
22 contracts for major components,  
23 commencing and completing  
24 construction, and beginning and  
25 conducting routine operation);

- 26 (2) No increment referred to above shall  
27 exceed nine (9) months;

- 28 (3) The user shall submit a progress  
report to the Director of Public Works  
no later than fourteen (14) days  
following each date in the schedule  
and the final date of compliance  
including, as a minimum, whether or  
not it complied with the increment of  
progress, the reason for any delay,  
and, if appropriate, the steps being  
taken by the user to return to the  
established schedule; and

- (4) In no event shall more than nine (9)  
months elapse between such progress  
reports to the Director of Public  
Works.

**Section 19-662. Reports on Compliance with Categorical Pretreatment Standard Deadline.**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Director of Public Works a report containing the information described in Section 19-658(2)(d-f) of this Ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 19-640 of this ordinance.

**Section 19-664. Periodic Compliance Reports.**

(1) All significant industrial users shall, at a frequency determined by the Director of Public Works but in no case less than twice per year, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 19-640 of this Ordinance.

(2) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and

1 maintained in good working order at  
2 all times. The failure of a user to  
3 keep its monitoring facility in good  
4 working order shall not be grounds for  
the user to claim that sample results  
are unrepresentative of its discharge.

- 5 (3) If a user subject to the reporting  
6 requirement in this section monitors  
7 any pollutant more frequently than  
8 required by the Director of Public  
9 Works, using the procedures prescribed  
10 in Section 19-676 and 19-678 of this  
Ordinance, the results of this  
monitoring shall be included in the  
report.

#### 11 **Section 19-666. Reports on Changed Conditions**

12 Each user must notify the Director of Public  
13 Works of any planned significant changes to  
14 the user's operations or system which might  
alter the nature, quality, or volume of its  
wastewater before the change is made.

- 15 (1) The Director of Public Works may  
16 require the user to submit such  
17 information as may be deemed necessary  
18 to evaluate the changed condition,  
including the submission of a  
wastewater discharge permit  
application under Section 19-638 of  
this ordinance.

- 19 (2) The Director of Public Works may issue  
20 a wastewater discharge permit under  
21 Section 19-642 of this Ordinance or  
22 modify an existing wastewater  
23 discharge permit under Section 19-650  
of this Ordinance in response to  
changed conditions or anticipated  
changed conditions.

- 24 (3) For purposes of this requirement,  
25 significant changes include, but are  
26 not limited to, flow increases of  
27 twenty percent 20% or greater, and the  
28 discharge of any previously unreported  
pollutants that are determined to be  
of concern.

1                   **Section 19-668. Reports of Potential Problems.**

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

10                   (2)       Within five (5) days following such  
11                               discharge, unless waived by the  
12                               Director of Public Works, the user  
13                               shall submit a detailed written report  
14                               describing the cause(s) of the  
15                               discharge and the measures to be taken  
16                               by the user to prevent similar future  
17                               occurrences. Such notification shall  
18                               not relieve the user of any expense,  
19                               loss, damage, or other liability which  
                             may be incurred as a result of damage  
                             to the POTW, natural resources, or any  
                             other damage to person or property;  
                             nor shall such notification relieve  
                             the user of any fines, penalties, or  
                             other liability which may be imposed  
                             pursuant to this Ordinance.

20                   (3)       A notice shall be permanently posted  
21                               on the user's bulletin board or other  
22                               prominent place advising employees  
23                               whom to call in the event of a  
24                               discharge described in paragraph A,  
25                               above. Employers shall ensure that  
26                               all employees, who may cause such a  
27                               discharge to occur, are advised of the  
28                               emergency notification procedure.

1                   **Section 19-670. Reports from Unpermitted**  
2                   **Users.**

3                   All users not required to obtain a  
4                   wastewater discharge permit shall provide  
5                   appropriate reports to the Director of Public  
6                   Works as the Director of Public Works may  
7                   require.

8                   **Section 19-672. Notice of Violation/Repeat**  
9                   **Sampling and Reporting**

10                  If sampling performed by a user indicates a  
11                  violation, the user must notify the Director  
12                  of Public Works within twenty-four (24) hours  
13                  of becoming aware of the violation. The user  
14                  shall also repeat the sampling and analysis  
15                  and submit the results of the repeat analysis  
16                  to the Director of Public Works within thirty  
17                  (30) days after becoming aware of the  
18                  violation. The user is not required to  
19                  resample if the Director of Public Works  
20                  monitors at the user's facility at least once  
21                  a month, or if the Director of Public Works  
22                  samples between the user's initial sampling  
23                  and when the user receives the results of this  
24                  sampling.

25                  **Section 19-674. Notification of the Discharge**  
26                  **of Hazardous Waste.**

- 27                  (1) Any user who commences the discharge  
28                  of hazardous waste shall notify the  
29                  POTW, the EPA Regional Waste  
30                  Management Division Director, and  
31                  State hazardous waste authorities, in  
32                  writing, of any discharge into the  
33                  POTW of a substance which, if  
34                  otherwise disposed of, would be a  
35                  hazardous waste under 40 CFR Part 261.  
36                  Such notification must include the  
37                  name of the hazardous waste as set  
38                  forth in 40 CFR Part 261, the EPA  
39                  hazardous waste number, and the type  
40                  of discharge (continuous, batch, or  
41                  other). If the user discharges more  
42                  than one hundred (100) kilograms of  
43                  such waste per calendar month to the  
44                  POTW, the notification also shall



1 the extent such information is known  
2 and readily available to the user: an  
3 identification of the hazardous  
4 constituents contained in the wastes,  
5 an estimation of the mass and  
6 concentration of such constituents in  
7 the waste stream discharged during  
8 that calendar month, and an estimation  
9 of the mass of constituents in the  
10 waste stream expected to be discharged  
11 during the following twelve (12)  
12 months. All notifications must take  
13 place no later than one hundred and  
14 eighty (180) days after the discharge  
15 commences. Any notification under  
16 this paragraph need be submitted only  
17 once for each hazardous waste  
18 discharged. However, notifications of  
19 changed conditions must be submitted  
20 under Section 19-666 of this  
21 ordinance. The notification  
22 requirement in this section does not  
23 apply to pollutants already reported  
24 by users subject to categorical  
25 pretreatment standards under the self-  
26 monitoring requirements of Sections  
27 19-658, 19-662, and 19-664 of this  
28 Ordinance.

(2) Dischargers are exempt from the  
requirements of paragraph A, above,  
during a calendar month in which they  
discharge no more than fifteen (15)  
kilograms of hazardous wastes, unless  
the wastes are acute hazardous wastes  
as specified in 40 CFR 261.30(d) and  
261.33(e). Discharge of more than  
fifteen (15) kilograms of non-acute  
hazardous wastes in a calendar month,  
or of any quantity of acute hazardous  
wastes as specified in 40 CFR  
261.30(d) and 261.33(e), requires a  
one-time notification. Subsequent  
months during which the user  
discharges more than such quantities  
of any hazardous waste do not require  
additional notification.

(3) In the case of any new regulations  
under Section 3001 of RCRA identifying

1 additional characteristics of  
2 hazardous waste or listing any  
3 additional substance as a hazardous  
4 waste, the user must notify the  
5 Director of Public Works, the POTW,  
6 the EPA Regional Waste Management  
7 Waste Division Director, and State  
8 hazardous waste authorities of the  
9 discharge of such substance within  
10 ninety (90) days of the effective date  
11 of such regulations.

12 (4) In the case of any notification made  
13 under this section, the user shall  
14 certify that it has a program in place  
15 to reduce the volume and toxicity of  
16 hazardous wastes generated to the  
17 degree it has determined to be  
18 economically practical.

19 (5) This provision does not create a right  
20 to discharge any substance not  
21 otherwise permitted to be discharged  
22 by this Ordinance, a permit issued  
23 thereunder, or any applicable Federal  
24 or State law.

#### 25 **Section 19-676. Analytical Requirements.**

26 All pollutant analyses, including sampling  
27 techniques, to be submitted as part of a  
28 wastewater discharge permit application or  
report shall be performed in accordance with  
the techniques prescribed in 40 CFR Part 136,  
unless otherwise specified in an applicable  
categorical pretreatment standard. If 40 CFR  
Part 136 does not contain sampling or  
analytical techniques for the pollutant in  
question, sampling and analyses must be  
performed in accordance with procedures  
approved by EPA.

#### 29 **Section 19-678. Sample Collection.**

30 (1) Except as indicated in Section B,  
31 below, the user must collect  
32 wastewater samples using flow  
33 proportional composite collection  
34 techniques. In the event flow  
35 proportional sampling is infeasible,

1 the Director of Public Works may  
2 authorize the use of time proportional  
3 sampling or a minimum of four (4) grab  
4 samples where the user demonstrates  
5 that this will provide a  
6 representative sample of the effluent  
7 being discharged. In addition, grab  
8 samples may be used to show compliance  
9 with instantaneous discharge limits.

- 10 (2) Samples for oil and grease,  
11 temperature, pH, cyanide, phenols,  
12 sulfides, and volatile organic  
13 compounds must be obtained using grab  
14 collection techniques.

15 **Section 19-680. Timing.**

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

22 **Section 19-682. Record Keeping.**

23 Users subject to the reporting requirements  
24 of this Ordinance shall retain, and make  
25 available for inspection and copying, all  
26 records of information obtained pursuant to  
27 any monitoring activities required by this  
28 Ordinance and any additional records of  
information obtained pursuant to monitoring  
activities undertaken by the user independent  
of such requirements. Records shall include  
the date, exact place, method, and time of  
sampling, and the name of the person(s) taking  
the samples; the dates analyses were  
performed; who performed the analyses; the  
analytical techniques or methods used; and the  
results of such analyses. These records shall  
remain available for a period of at least  
three (3) years. This period shall be  
automatically extended for the duration of any  
litigation concerning the user or the City of  
Keller, or where the user has been  
specifically notified of a longer retention  
period by the Director of Public Works and/or  
Control Authority.

1  
2 **Section 19-684. Right of Entry: Inspection and**  
3 **Sampling.**

4 The Director of Public Works and/or the  
5 Control Authority, TCEQ, or USEPA or their  
6 designated representative shall have the right  
7 to enter the premises of any user to determine  
8 whether the user is complying with all  
9 requirements of this Ordinance and any  
10 wastewater discharge permit or order issued  
11 hereunder. Users shall allow inspecting or  
12 sampling person ready access to all parts of  
13 the premises for the purposes of inspection,  
14 sampling, records examination and copying, and  
15 the performance of any additional duties.

16 (1) Where a user has security measures in  
17 force which require proper  
18 identification and clearance before  
19 entry into its premises, the user  
20 shall make necessary arrangements with  
21 its security guards so that, upon  
22 presentation of suitable  
23 identification, the City, Control  
24 Authority, TCEQ or USEPA will be  
25 permitted to enter without delay for  
26 the purposes of performing specific  
27 responsibilities.

28 (2) The Director of Public Works an/or  
Control Authority shall have the right  
to set up on the user's property, or  
require installation of, such devices  
as are necessary to conduct sampling  
and/or metering of the user's  
operations. All sampling and analysis  
performed by the Director of Public  
Works and/or Control Authority to  
monitor compliance shall be at the  
expense of the industrial user.

(3) The Director of Public Works and/or  
Control Authority may require the user  
to install monitoring equipment as  
necessary. The facility's sampling  
and monitoring equipment shall be  
maintained at all times in a safe and  
proper operating condition by the user  
at its own expense. All devices used

1 to measure wastewater flow and quality  
2 shall be calibrated, at a minimum,  
annually to ensure their accuracy.

3 (4) Any temporary or permanent obstruction  
4 to safe and easy access to the  
5 facility to be inspected and/or  
6 sampled shall be promptly removed by  
7 the user at the written or verbal  
8 request of The Director of Public  
Works and/or Control Authority and  
shall not be replaced. The costs of  
clearing such access shall be born by  
the user.

9 (5) Unreasonable delays in allowing the  
10 inspecting or sampling person access  
11 to the user's premises shall be a  
violation of this Ordinance.

12 (6) In accordance with 40 CFR 403, the  
13 City shall inspect and monitor each  
14 permitted Industrial User a minimum of  
15 once per year. If the City elects to  
16 perform compliance monitoring for the  
industry then the City will monitor  
the industry a minimum of semi  
annually.

#### 17 **Section 19-686. Search Warrants.**

18 If the Director of Public Works and/or  
19 Control Authority has been refused access to a  
20 building, structure, or property, or any part  
21 thereof, and is able to demonstrate probable  
22 cause to believe that there may be a violation  
23 of this Ordinance, or that there is a need to  
inspect and/or sample as part of a routine  
inspection and sampling program of the City of  
Keller designed to verify compliance with this  
Ordinance or any permit or order issued  
hereunder, or to protect the overall public  
24 health, safety and welfare of the community,  
25 then The Director of Public Works and/or  
26 Control Authority may seek issuance of a  
27 search warrant from an appropriate court.  
28

**Section 19-688. Confidentiality of Information**

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the City and/or Control Authority, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

**Section 19-690. Publication of Users in Significant Noncompliance.**

The Director of Public Works shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. 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

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taken during a six (6) 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 (6) 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 that the Director of Public Works and/or Control Authority 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 of Public Works or Control Authority's exercise of its 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

1 with compliance schedules;

2 (7) Failure to accurately report  
3 noncompliance; or

4 (8) Any other violation(s) which the  
5 Director of Public Works determines  
6 will adversely affect the operation or  
implementation of the local  
pretreatment program.

7 **Section 19-692. Notification of Violation.**

8 When the Director of Public Works finds that  
9 a user has violated, or continues to violate,  
any provision of this Ordinance, a wastewater  
10 discharge permit or order issued hereunder, or  
any other pretreatment standard or  
11 requirement, the Director of Public Works may  
serve upon that user a written Notice of  
12 Violation. Within the time frame specified in  
the notice, which is usually, but not always,  
13 an explanation of the violation and a plan for  
the satisfactory correction and prevention  
14 thereof, to include specific required actions,  
shall be submitted by the user to the Director  
15 of Public Works. Submission of this plan in  
no way relieves the user of liability for any  
16 violations occurring before or after receipt  
of the Notice of Violation. Nothing in this  
17 section shall limit the authority of the  
Director of Public Works to take any action,  
18 including emergency actions or any other  
enforcement action, without first issuing a  
19 Notice of Violation.

20 **Section 19-694. Reserved**

21 **Section 19-696. Show Cause Hearing.**

22  
23 The Director of Public Works may order a  
user which has violated, or continues to  
24 violate, any provision of this Ordinance, a  
wastewater discharge permit or order issued  
25 hereunder, or any other pretreatment standard  
or requirement, to appear before the Director  
26 of Public Works and show cause why the  
proposed enforcement action should not be  
27 taken. Notice shall be served on the user  
specifying the time and place for the meeting,  
28



1 the proposed enforcement action, the reasons  
2 for such action, and a request that the user  
3 show cause why the proposed enforcement action  
4 should not be taken. The notice of the  
5 meeting shall be served personally or by  
6 registered or certified mail (return receipt  
7 requested) at least ten (10) days prior to the  
8 hearing. Such notice may be served on any  
9 authorized representative of the user. A show  
10 cause hearing shall not be a bar against, or  
11 prerequisite for, taking any other action  
12 against the user.

13 **Section 19-698. Compliance Orders.**

14 When the Director of Public Works finds that a  
15 user has violated, or continues to violate,  
16 any provision of this Ordinance, a wastewater  
17 discharge permit or order issued hereunder, or  
18 any other pretreatment standard or  
19 requirement, the Director of Public Works may  
20 issue an order to the user responsible for the  
21 discharge directing that the user come into  
22 compliance within a specified time. If the  
23 user does not come into compliance within the  
24 time provided, sewer service may be  
25 discontinued unless adequate treatment  
26 facilities, devices, or other related  
27 appurtenances are installed and properly  
28 operated. Compliance orders also may contain  
other requirements to address the  
noncompliance, including additional self-  
monitoring and management practices designed  
to minimize the amount of pollutants  
discharged to the sewer. A compliance order  
may not extend the deadline for compliance  
established for a pretreatment standard or  
requirement, nor does a compliance order  
relieve the user of liability for any  
violation, including any continuing violation.  
Issuance of a compliance order shall not be a  
bar against, or a prerequisite for, taking any  
other action against the user.

29 **Section 19-700. Cease and Desist Orders.**

30 When the Director of Public Works finds that  
31 a user has violated, or continues to violate,  
32 any provision of this Ordinance, a wastewater  
33 discharge permit or order issued hereunder, or

1 any other pretreatment standard or  
2 requirement, or that the user's past  
3 violations are likely to recur, the Director  
4 of Public Works may issue an order to the user  
5 directing it to cease and desist all such  
6 violations and directing the user to:

7 (1) Immediately comply with all  
8 requirements; and

9 (2) Take such appropriate remedial or  
10 preventive action as may be needed to  
11 properly address a continuing or  
12 threatened violation, including  
13 halting operations and/or terminating  
14 the discharge.

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

18 **Section 19-702. Reserved.**

19 **Section 19-704. Emergency Suspension.**

20 The Director of Public Works may immediately  
21 suspend a user's discharge, after informal  
22 notice to the user, whenever such suspension  
23 is necessary to stop an actual or threatened  
24 discharge which reasonably appears to present  
25 or cause an imminent or substantial  
26 endangerment to the health or welfare of  
27 persons. The Director of Public Works may  
28 also immediately suspend a user's discharge,  
after notice and opportunity to respond, that  
threatens to interfere with the operation of  
the POTW, or which presents, or may present,  
an endangerment to the environment.

(1) Any user notified of a suspension of  
its discharge shall immediately stop  
or eliminate its contribution. In the  
event of a user's failure to  
immediately comply voluntarily with  
the suspension order, the Director of  
Public Works or Control Authority may  
take such steps as deemed necessary,  
including immediate severance of the  
sewer connection, to prevent or  
minimize damage to the POTW, its

1 receiving stream, or endangerment to  
2 any individuals. The Director of  
3 Public Works may allow the user to  
4 recommence its discharge when the user  
5 has demonstrated to the satisfaction  
6 of the Director of Public Works that  
the period of endangerment has passed,  
unless the termination proceedings in  
Section 19-708 of this Ordinance are  
initiated against the user.

- 7 (2) A user that is responsible, in whole  
8 or in part, for any discharge  
9 presenting imminent endangerment shall  
10 submit a detailed written statement,  
11 describing the causes of the harmful  
12 contribution and the measures taken to  
prevent any future occurrence, to the  
Director of Public Works prior to the  
date of any show cause or termination  
hearing under Sections 19-696 or  
19-706 of this Ordinance.

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

16 **Section 19-706. Termination of Discharge.**

17 In addition to the provisions in Section 5.6  
18 of this ordinance, any user who violates the  
19 following conditions is subject to discharge  
termination:

- 20 (1) Violation of wastewater discharge  
21 permit conditions;  
22 (2) Failure to accurately report the  
23 wastewater constituents and  
24 characteristics of its discharge;  
25 (3) Failure to report significant changes  
26 in operations or wastewater volume,  
27 constituents, and characteristics  
28 prior to discharge;

1 (4) Refusal of reasonable access to the  
2 user's premises for the purpose of  
3 inspection, monitoring, or sampling;  
or

4 (5) Violation of the pretreatment  
5 standards in Sections 19-608 through  
19-620 of this Ordinance.

6 Such user will be notified of the proposed  
7 termination of its discharge and be offered an  
8 opportunity to show cause under Section 19-696  
9 of this Ordinance why the proposed action  
10 should not be taken. Exercise of this option  
by the Director of Public Works shall not be a  
bar to, or a prerequisite for, taking any  
other action against the user.

11 **Section 19-708. Injunctive Relief.**

12 When the Director of Public Work finds that a  
13 user has violated, or continues to violate, any  
14 provision of this Ordinance, a wastewater  
15 discharge permit, or order issued hereunder, or  
16 any other pretreatment standard or requirement,  
17 the Director of Public Works may petition the  
18 appropriate Court through the City of Keller's  
19 Attorney for the issuance of a temporary or  
20 permanent injunction, as appropriate, which  
restrains or compels the specific performance  
of the wastewater discharge permit, order, or  
other requirement imposed by this Ordinance on  
activities of the user. The Director of Public  
Works may also seek such other action as is  
appropriate for legal and/or equitable relief,  
including a requirement for the user to conduct  
environmental remediation. A petition for  
injunctive relief shall not be a bar against,  
or a prerequisite for, taking any other action  
against a user.

23 **Section 19-710. Civil Penalties.**

24 (1) A user who has violated, or continues  
25 to violate, any provision of this  
26 Ordinance, a wastewater discharge  
27 permit, or order issued hereunder, or  
28 any other pretreatment standard or  
requirement shall be liable to the  
City of Keller for a maximum civil

1 penalty of One Thousand Dollars  
2 (\$1,000.00) per violation, per day.  
3 In the case of a monthly or other  
4 long-term average discharge limit,  
penalties shall accrue for each day  
during the period of the violation.

5 (2) The Director of Public Works may  
6 recover reasonable attorneys' fees,  
7 court costs, and other expenses  
8 associated with enforcement  
9 activities, including sampling and  
monitoring expenses, and the cost of  
any actual damages incurred by the  
City of Keller.

10 (3) In determining the amount of civil  
11 liability, the Court shall take into  
12 account all relevant circumstances,  
13 including, but not limited to, the  
14 extent of harm caused by the  
15 violation, the magnitude and duration  
of the violation, any economic benefit  
gained through the user's violation,  
corrective actions by the user, the  
compliance history of the user, and  
any other factor as justice requires.

16 (4) Filing a suit for civil penalties  
17 shall not be a bar against, or a  
18 prerequisite for, taking any other  
action against a user.

19 **Section 19-712. Criminal Prosecution.**

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

24 (2) A user who negligently introduces any  
25 substance into the POTW which causes  
26 personal injury or property damage  
27 shall, upon conviction, be guilty of a  
28

1 misdemeanor and be subject to the same  
2 penalties described in Section 19-712  
3 (1) of this Ordinance. This penalty  
4 shall be in addition to any other  
cause of action for personal injury or  
property damage available under State  
law.

- 5 (3) A user who makes any false statements,  
6 representations, or certifications in  
7 any application, record, report, plan,  
8 or other documentation filed, or  
9 required to be maintained, pursuant to  
this Ordinance, wastewater discharge  
10 permit, or order issued hereunder, or  
11 who falsifies, tampers with, or  
renders inaccurate any monitoring  
12 device or method required under this  
Ordinance shall, upon conviction, be  
subject to the same penalties  
described in Section 19-712 (1) of  
this Ordinance.

- 13 (4) CRIMINAL RESPONSIBILITY. A culpable  
14 mental state is not required to prove  
15 an offense under this Ordinance. A  
16 person is criminally responsible for a  
violation of this Ordinance if:

17 (a) The person commits or assists in  
18 the commission of a violation, or  
causes or permits another person  
to commit a violation; or

19 (b) The person owns or manages the  
20 property or facilities determined  
21 to be the cause of the illegal  
22 discharge under Section 19-608,  
19-610, 19-614, 19-628, or 19-  
632.

23 **Section 19-714. Remedies Nonexclusive.**

24 The remedies provided for in this Ordinance  
25 are not exclusive. The Director of Public  
26 Works may take any, all, or any combination of  
27 these actions against a noncompliant user.  
28 Enforcement of pretreatment violations will  
generally be in accordance with the City of  
Keller's enforcement response plan. However,

1 the Director of Public Works may take other  
2 action against any user when the circumstances  
3 warrant. Further, the Director of Public  
4 Works is empowered to take more than one  
5 enforcement action against any noncompliant  
6 user.

7 **Section 19-716. Applicability of More Stringent**  
8 **Regulations.**

9 (1) If national pretreatment standards,  
10 categorical or otherwise, more  
11 stringent than the discharge limits  
12 prescribed in this article are  
13 promulgated by the United States  
14 Environmental Protection Agency for  
15 certain industries, the more stringent  
16 national pretreatment standards will  
17 apply to the affected industrial user.  
18 A violation of the more stringent  
19 national pretreatment standards will  
20 also be considered a violation of this  
21 Ordinance.

22 (2) Applicability of more stringent  
23 discharge limits. An industrial user  
24 within the city who discharges  
25 industrial waste ultimately received  
26 and treated by another governmental  
27 entity pursuant to a wholesale  
28 wastewater contract or a reciprocal  
agreement with the city is subject to  
the following additional rules:

(a) If the governmental entity has  
more stringent discharge limits  
than those prescribed by this  
Ordinance, or by a discharge  
permit issued hereunder, because  
the United States Environmental  
Protection Agency requires the  
more stringent discharge limits  
as part of the governmental  
entity's wastewater pretreatment  
program, the more stringent  
discharge limits shall prevail.

(b) The Director of Public Works is  
authorized to issue a discharge  
permit to an industrial user

1 affected by Subsection (a), to  
2 insure notice of and compliance  
3 with the more stringent discharge  
4 limits. If the industrial user  
5 already has a discharge permit,  
6 the Director of Public Works may  
7 amend the permit to apply and  
8 enforce the more stringent  
9 discharge limits. An industrial  
10 user shall submit to the Director  
11 of Public Works an expected  
12 compliance date and an  
13 installation schedule if the more  
14 stringent discharge limits  
15 necessitate technological or  
16 mechanical adjustments to  
17 discharge facilities or plant  
18 processes.

11 (c) If the Director of Public Works  
12 chooses not to issue or amend a  
13 permit under Subsection (b), the  
14 Director of Public Works shall  
15 notify the affected industrial  
16 user in writing of the more  
17 stringent discharge limits and  
18 their effective date. Regardless  
19 of whether or not a permit is  
20 issued or amended, an industrial  
21 user shall be given a reasonable  
22 opportunity to comply with the  
23 more stringent discharge limits.

19 (d) The more stringent discharge  
20 limits cease to apply upon  
21 termination of the city's  
22 wholesale wastewater contract or  
23 reciprocal agreement with the  
24 governmental entity, or upon  
25 modification or elimination of the  
26 limits by the government entity or  
27 the United States Environmental  
28 Protection Agency. The Director  
of Public Works shall take the  
appropriate action to notify the  
affected industrial user of an  
occurrence under this Subsection  
(d).



1  
2 (3) Variances in compliance dates. The  
3 Director of Public Works may grant a  
4 variance in compliance dates to an  
5 industry when, in the Director of  
6 Public Works' opinion, such action is  
7 necessary to achieve pretreatment or  
8 corrective measures. In no case shall  
9 the Director of Public Works grant a  
10 variance in compliance dates to an  
11 industry affected by national  
12 categorical pretreatment standards  
13 beyond the compliance dates  
14 established by the United States  
15 Environmental Protection Agency.

16 (4) Authority to regulate. The Director  
17 of Public Works may establish  
18 regulations, not in conflict with this  
19 Ordinance or other laws, to control  
20 the disposal and discharge of  
21 industrial waste into the wastewater  
22 system and to insure compliance with  
23 the city's pretreatment enforcement  
24 program with all applicable  
25 pretreatment regulations promulgated  
26 by the United States Environmental  
27 Protection Agency. The regulations  
28 established shall, where applicable,  
be made part of any discharge permit  
issued to an industrial user by the  
Director of Public Works.

**Section 19-718. Reserved.**

**Section 19-720. Upset.**

In an action brought in Federal court only:

(1) For the purposes of this section,  
"upset" means an exceptional incident  
in which there is unintentional and  
temporary noncompliance with  
categorical pretreatment standards  
because of factors beyond the  
reasonable control of the user. An  
upset does not include noncompliance  
to the extent caused by operational  
error, improperly designed treatment  
facilities, inadequate treatment

1 facilities, lack of preventive  
2 maintenance, or careless or improper  
operation.

3 (2) An upset shall constitute an  
4 affirmative defense to an action  
5 brought for noncompliance with  
6 categorical pretreatment standards if  
the requirements of paragraph (3),  
below, are met.

7 (3) A user who wishes to establish the  
8 affirmative defense of upset shall  
9 demonstrate, through properly signed,  
contemporaneous operating logs, or  
other relevant evidence that:

10 (a) An upset occurred and the user can  
11 identify the cause(s) of the  
upset;

12 (b) The facility was at the time being  
13 operated in a prudent and workman-  
14 like manner and in compliance with  
applicable operation and  
15 maintenance procedures; and

16 (c) The user has submitted the  
17 following information to the  
18 Director of Public Works within  
19 twenty-four (24) hours of becoming  
aware of the upset, if this  
information is provided orally, a  
written submission must be  
provided within five (5) days:

20 (i) A description of the  
21 indirect discharge and cause  
22 of noncompliance;

23 (ii) The period of noncompliance,  
including exact dates and  
24 times or, if not corrected,  
the anticipated time the  
25 noncompliance is expected to  
continue; and

26 (iii) Steps being taken and/or  
27 planned to reduce,  
eliminate, and prevent  
28

recurrence of the  
noncompliance.

(4) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(5) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(6) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

#### **Section 19-722. Act of God.**

In an action brought in Municipal or State court only:

(1) An event that would otherwise be a violation that is caused solely by an act of God, war, strike, riot, or other catastrophe is not a violation.

(2) In any enforcement proceeding, the user seeking to establish the occurrence of an act of God, war, strike, riot, or other catastrophe shall have the burden of proof.

(3) In the event that (1) and (2) above has been demonstrated the user shall control production of all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss, or failure of its treatment facility until the

1 facility is restored or an alternative  
2 method of treatment is provided.

3 **Section 19-724. Bypass.**

4 (1) For the purposes of this section:

5 (a) "Bypass" means the intentional  
6 diversion of waste streams from  
7 any portion of a user's  
8 treatment facility.

9 (b) "Severe property damage" means  
10 substantial physical damage to  
11 property, damage to the  
12 treatment facilities, which  
13 causes them to become  
14 inoperable, or substantial and  
15 permanent loss of natural  
16 resources which can reasonably  
17 be expected to occur in the  
18 absence of a bypass. Severe  
19 property damage does not mean  
20 economic loss caused by delays  
21 in production.

22 (2) A user may allow any bypass to occur  
23 which does not cause pretreatment  
24 standards or requirements to be  
25 violated, but only if it also is for  
26 essential maintenance to assure  
27 efficient operation. These bypasses  
28 are not subject to the provision of  
paragraphs (3) and (4) of this  
section.

(3) (a) If a user knows in advance of the  
need for a bypass, it shall  
submit prior notice to the  
Director of Public Works, at  
least ten (10) days before the  
date of the bypass, if possible.

(b) A user shall submit oral notice  
to the Director of Public Works  
of an unanticipated bypass that  
exceeds applicable pretreatment  
standards within twenty-four (24)  
hours from the time it becomes  
aware of the bypass. A written

1 submission shall also be provided  
2 within five (5) days of the time  
3 the user becomes aware of the  
4 bypass. The written submission  
5 shall contain a description of  
6 the bypass and its cause; the  
7 duration of the bypass, including  
8 exact dates and times, and, if  
9 the bypass has not been  
10 corrected, the anticipated time  
11 it is expected to continue; and  
12 steps taken or planned to reduce,  
13 eliminate, and prevent  
14 reoccurrence of the bypass. The  
15 Director of Public Works may  
16 waive the written report on a  
17 case-by-case basis if the oral  
18 report has been received within  
19 twenty-four (24) hours.

12 (4) (a) Bypass is prohibited, and the  
13 Director of Public Works may take  
14 an enforcement action against a  
15 user for a bypass, unless

15 (i) Bypass was unavoidable to  
16 prevent loss of life,  
17 personal injury, or severe  
18 property damage;

17 (ii) There were no feasible  
18 alternatives to the bypass,  
19 such as the use of auxiliary  
20 treatment facilities,  
21 retention of untreated  
22 wastes, or maintenance  
23 during normal periods of  
24 equipment downtime. This  
25 condition is not satisfied  
26 if adequate back-up  
27 equipment should have been  
28 installed in the exercise of  
reasonable engineering  
judgment to prevent a bypass  
which occurred during normal  
periods of equipment  
downtime or preventive  
maintenance; and

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

(b) The Director of Public Works may approve an anticipated bypass, after considering its adverse effects, if the Director of Public Works determines that it will meet the three (3) conditions listed in paragraph (4)(a) of this section.

**Section 19-726. Reserved.**

**Section 19-728. Pretreatment Charges and Fees.**

1. The City of Keller may adopt reasonable fees for reimbursement of costs of setting up and operating the City of Keller's Pretreatment Program which may include:

(a) Fees for wastewater discharge permit applications including the cost of processing such applications;

(b) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;

(c) Fees for reviewing and responding to accidental discharge procedures and construction;

(d) Fees for filing appeals;

(e) Other fees as the City of Keller may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Ordinance and are separate from all other fees, fines, and penalties chargeable by the City of Keller.

1 (f) Fees for treating abnormal  
2 strength wastes; and

3 (g) Fees incurred from an upset,  
4 bypass or unauthorized discharge.

5 2. Surcharge

6 The city may surcharge industrial users for  
7 the treating of abnormal strength wastes.  
8 Water or wastes having 1) a five (5) day  
9 biochemical oxygen demand greater than two  
10 hundred fifty (250) parts per million (ppm) by  
11 weight or 2) containing more than two hundred  
12 fifty (250) parts per million by weight of  
13 total suspended solids shall be subject to the  
14 review and approval of the Director of Public  
15 Works. Where the Director of Public Works has  
16 approved the admission of (a) or (b) above  
17 into the POTW, that discharge may be subject  
18 to a surcharge as determined by the Director  
19 of Public Works. In no case shall a discharge  
20 be accepted that will prevent the POTW from  
21 meeting its limits.

22 The surcharge will be assessed according to  
23 the following formula each month using the  
24 most current pollutant concentration data and  
25 the current months' wastewater flow:

26 Surcharge =

27 
$$\frac{Q}{1,000,000} \times [a(\text{BOD} - x) + b(\text{TSS} - y)][8.34]$$

28 Where:

Q = flow in gallons

8.34 = weight in pounds of one gallon of  
water

x = normal limits of BOD in domestic  
wastewater expressed in milligrams per liter

y = normal limits of TSS in domestic  
wastewater expressed in milligrams per liter

a = unit cost of treatment per pound of BOD

b = unit cost of treatment per pound of TSS

BOD = measured amount of BOD, in mg/l

TSS = measured amount of TSS, in mg/l

1 A surcharge is an additional charge by the  
2 POTW for the increased cost of handling  
3 discharge of unusual strength and character  
4 and shall not serve as a variance to the  
5 requirements of this Ordinance. Exercise of  
6 this provision shall not be a bar to, or a  
7 prerequisite for, taking any other action  
8 against the user."

9 Section 3: THAT, Chapter 19, Water and Sewers, of the  
10 City of Keller Code of Ordinances, be hereby  
11 amended by adding a new Article VI, Prohibited  
12 Discharges, to read as follows:

13 **"ARTICLE VI. PROHIBITED DISCHARGES**

14 **Section 19-800. Purpose and Policy.**

15 This Ordinance sets forth uniform  
16 requirements for discharges to the storm  
17 drainage system or watercourses in The City of  
18 Keller.

19 This Ordinance shall apply to any person who  
20 will discharge water into the storm drainage  
21 system or water courses within the city  
22 limits.

23 **Section 19-802. Prohibited discharges  
24 generally.**

25 (1) It shall be unlawful for any person,  
26 either as owner, tenant or employee,  
27 to commit such acts as listed below  
28 that will adversely affect the quality  
of water in the storm drainage system  
and watercourses within the city.

(2) Grease and sand traps from automotive  
centers, service stations, and vehicle  
wash operations must be connected to  
the sanitary sewer.

(3) Bus and truck lines, who operate more  
than two (2) vehicles, who perform  
vehicle wash operations, shall provide  
such effluent to be trapped and placed  
in the sanitary sewer in accordance  
with the city plumbing code.



- 1 (4) Aircraft washing shall be trapped and  
2 effluent placed in the sanitary sewer  
3 in accordance with the city plumbing  
4 code.
- 5 (5) Dumping of grass clipping, leaves  
6 brush, or any debris to curb, gutter,  
7 storm inlet, storm drain, or  
8 watercourse is prohibited.
- 9 (6) No person shall permit crankcase  
10 drainings, vehicle engine wash or  
11 other oils, greases or like material  
12 to go to any area that will drain to  
13 the storm system or watercourse.
- 14 (7) No liquid, semi-liquid, or chemical  
15 waste shall be deposited in any area  
16 that will drain to the storm system or  
17 watercourse. All such materials shall  
18 be disposed of at a site approved for  
19 the disposal of such liquids.
- 20 (8) With the exception of clean untreated  
21 water, no cooling tower, compressor or  
22 boiler blowdown water will be  
23 permitted to flow to the storm system  
24 or watercourse.
- 25 (9) Water from nurseries used to water  
26 plants is prohibited from flowing to  
27 streets or alleys to the extent that a  
28 nuisance is created by standing water,  
damage to streets or alleys or  
affecting the free passage of the foot  
traffic.
- (10) Filter backwash from swimming pools  
and fountains shall drain to the  
sanitary sewer.
- (11) Animal pens for kennels, animal  
hospitals, packing houses, poultry  
processing plants and dairies shall be  
connected to the sanitary sewer in  
accordance with the plumbing code.  
Exceptions shall be made when such  
establishment is issued a permit by  
U.S. Corps of Engineers, Texas  
Commission on Environmental Quality,

city department of public works and the county health department.

- (12) Ready mixed concrete mortar and asphalt base material delivery trucks are prohibited from dumping unused materials to any area that will drain to streams and watercourses. All residue shall be disposed of, and vehicles wash down at a site approved for that purpose."

Section 4: **SEVERABILITY.** If any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances, are for any reason held to be unconstitutional, void, invalid or for any reason unenforceable, the validity of the remaining portions of this Ordinance or its application to other persons or circumstances shall not be affected; thereby, it being the intent of the City Council of the City of Keller, Texas in adopting, and the Mayor in approving this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, or regulation.

Section 5: **EMERGENCY.** The fact that the Contract between the City of Keller and the Trinity River Authority requires certain action to be taken by the City of Keller to regulate the discharge of industrial waste into the wastewater system of the City of Keller creates an urgency and an emergency in the preservation of public health, safety and welfare, and requires that this Ordinance shall take effect immediately from and after its adoption upon single reading and publication as herein provided.

Section 6: **EFFECTIVE DATE AND PUBLICATION.** This Ordinance shall be effective upon its final reading as of the day of its passage and the City Secretary is hereby authorized and directed to cause publication of the descriptive caption and penalty clause of this Ordinance as an alternative method of publication provided by

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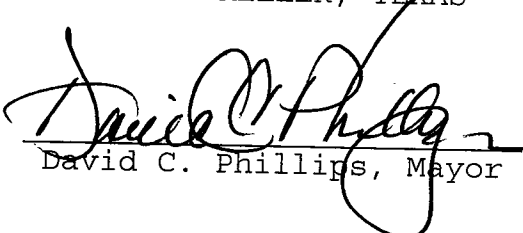
State Law.

AND IT IS SO ORDAINED.


Passed and approved by a vote of 4 to 0 on this the 15th day of April, 2003.

CITY OF KELLER, TEXAS

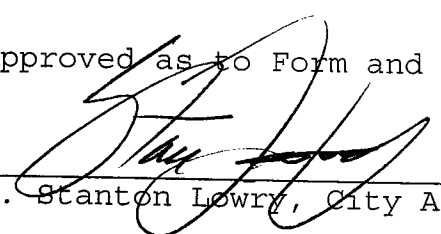
By:

  
David C. Phillips, Mayor

ATTEST:

  
Sheila Stephens, City Secretary

Approved as to Form and Legality:

  
L. Stanton Lowry, City Attorney