

**ORDINANCE**

AN ORDINANCE CREATING ARTICLE VI OF CHAPTER 82 OF THE CODE OF ORDINANCES, CITY OF BURLESON, TEXAS PROVIDING FOR THE ASSESSMENT OF AN ABNORMAL SEWAGE SURCHARGE ON CERTAIN COMMERCIAL AND INDUSTRIAL ESTABLISHMENTS WHICH DISCHARGE INTO THE CITY OF BURLESON'S SANITARY SEWER SYSTEM CONCENTRATIONS OF BIOCHEMICAL OXYGEN DEMAND (BOD) AND TOTAL SUSPENDED SOLIDS (TSS) IN AMOUNTS EXCEEDING NORMAL DOMESTIC WASTEWATER CONCENTRATIONS AND PROVIDING A STANDARD FOR SAMPLING BOD AND TSS CONCENTRATIONS FOR THREE (3) CLASSES OF ESTABLISHMENTS REGULATED BY THIS ORDINANCE; INCORPORATING THE RECITALS INTO THE BODY OF THE ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION; AND PROVIDING FOR PENALTIES.

**WHEREAS**, the City of Burleson, Texas, is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City Council of the City of Burleson finds that the improper discharge of sewage having excessive levels of total suspended solids or biochemical oxygen demand content into a sanitary sewer poses a threat to public health and safety; and

**WHEREAS**, the City Council of the City of Burleson seeks to regulate sewage having a total suspended solids or biochemical oxygen demand content in excess of that found in normal domestic wastewater but which is otherwise acceptable into a sanitary sewer;

**WHEREAS**, the City Council of the City of Burleson finds that regulations on the discharge of sewage having excessive levels of total suspended solids or biochemical oxygen demand content into a sanitary sewer is reasonable, necessary, and proper for the good government of the City of Burleson;

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

**Section 1.**

Article VI of Chapter 82 of the Code of Ordinances, City of Burleson, Texas, is hereby created to read as follows:

**“ARTICLE VI. ABNORMAL SEWAGE SURCHARGE**

**Sec. 82-301 – Definitions.**

When used in this Article, these terms shall be defined as follows:

*Abnormal Sewage* means any sewage having a Total Suspended Solids (TSS) or Biochemical Oxygen Demand (BOD) content in excess of that found in normal domestic wastewater but which is otherwise acceptable into a sanitary sewer under the terms of this Article and Article II of Chapter 82 of this Code of Ordinances, City of Burleson, Texas.

*Abnormal Sewage Surcharge* means the charge levied against any person for services rendered during treatment of abnormal sanitary sewage or waste. This charge shall be in addition to the usual monthly charge for sanitary sewage service.

*Biochemical Oxygen Demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter specified by procedure in “Standard Methods”, and results expressed in terms of weight and concentration (milligrams per liter [mg/L]).

*City* means the city of Burleson, Texas.

*Composite Sample* means a sample of the wastewater discharged to the collection system by a user and composed of a series of not less than three samples taken during the periods when industrial wastes are being discharged. The period of time over which the samples are collected for compositing into a single sample shall not exceed twenty-four hours. The series of samples may be collected on a time-proportional or flow-proportional basis.

*Director* means the Director of Public Works for the City of Burleson, Texas or his/her designee.

*Grab Sample* means a single sample of effluent flow taken at any time.

*mg/l* means milligram per liter.

*ppm* means parts per million.

*Person* means any individual, business, partnership, any type of corporation, governmental agency, or political subdivision.

*POTW* is the abbreviation for Publicly Owned Treatment Works and means any sewage treatment plant and the sewers, watercourses and appurtenances thereto, owned and operated by the City or by others under contract to treat the City’s sewage.

*Sanitary Sewer* means a publicly owned pipe or conduit designed to collect and transport industrial waste and domestic sewage to the POTW.

*Sewage* means a water-carried human wastes or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm or other waters as may be present.

*Shall* means an obligation to do some act, and is mandatory.

*Significant industrial user (SIU)* shall have the same meaning as the term is defined in Section 82-41 of this Code of Ordinances, City of Burleson, Texas.

*User* means any person who contributes, causes or permits the contribution of wastewater into the City's sanitary sewer.

*Wastewater* means industrial waste, sewage or any other waste that has been used by and discharged from an industry, commercial enterprise, household or other water consumer, including that may be combined with any ground water, surface water or storm water, that may be discharged to the POTW. Said water may be either polluted or unpolluted.

**Sec. 82-302 – Abnormal Sewage Surcharge Calculation.**

- (a) The abnormal sewage surcharge shall be calculated per 1,000 gallons metered using the following formula:

$$S = \{b \times (B-DB) + t \times (T-DT)\} \times 8.34/10,000 \times 1.05$$

S = Surcharge Rate

B = BOD Strength

T = TSS Strength

b = BOD \$/lb.

DB = Normal BOD strength

T = TSS \$/lb.

DT = Normal TSS strength

8.34 = lbs./gallon

10,000 = Meter units

1.05 = Sampling recovery factor

- (b) The volume of flow used in computing abnormal sewage surcharges shall be based upon metered water consumption as shown in the meter reading records maintained by the City.
- (c) Any User who procures any part or all of his water supply from sources other than the City, all or part of which is discharged into the sanitary sewer system, shall install and maintain, at their expense, water meters of the type approved by the City for the purpose of determining the proper volume of flow to be used in computing sewer service charges. Such meters shall be read monthly and tested for accuracy when deemed necessary by the City.

- (d) In those circumstances where a User desires a credit for metered water being consumed, but not being returned to the sanitary sewer, a volume credit shall be allowed if said water User installs an effluent meter or meters to measure wastewater flow. Said meter shall be installed and maintained at the customer's expense, be installed pursuant to plans and specifications approved by the City, be installed in an approved location, be calibrated annually and a certified calibration statement for said meter be annually provided the City, and have a totalization device. The aforementioned calibration shall be witnessed by a representative of the City.
- (e) In those circumstances where a User desires a credit for metered water being consumed but not being returned to the sanitary sewer, and further where subsections (b), (c), and (d) are not applicable, it shall be the responsibility of the User to provide satisfactory evidence of discharge reduction upon which an accurate credit can be estimated, and the City may estimate said discharge upon the presentment of such evidence.
- (f) If the City finds that it is not practicable to measure the quantity or quality of waste by the aforesaid meters or monitoring devices, it shall determine the quantity or reality of the waste in any manner or method it may find practicable in order to arrive at the percentage of water entering the sanitary sewer system of the City or the quality of the sewage to be used to determine the sewer service charge and the abnormal sewage surcharge for class groups.

**Sec. 82-303 – Abnormal Sewage Class Groups.**

Commercial and industrial establishments hereafter described as Class I, II, III which discharge wastewater into the City sanitary sewer system shall be required to meet the requirements of this section:

<u>Class</u>	<u>Description</u>
I	<u>Eating places:</u> includes restaurants, bars, lounges, and other establishments which engage in preparation of food or beverage which is served directly to the consumer.
II	<u>Equipment service facilities:</u> includes establishments which perform or provide washing, cleaning, or servicing, of automobiles, trucks, buses, machinery, or equipment, this class to include public facilities, facilities limited to specific companies, attended and coin operated establishments.
III	<u>Food and kindred products processing:</u> includes commercial establishments which engage in the preparation, packaging, processing, or distribution of food, food other than those included in Class I and which discharge less than 150,000 gallons of wastewater per month.

All commercial and industrial establishments falling within one or more of the above class groups shall be subject to and pay a surcharge as set forth in Section 82-302.

At the discretion of the Director, any commercial or industrial establishment may be monitored individually.

**Sec. 82-304 – BOD and TSS Strengths per Class.**

A surcharge shall be charged the customers based on wastewater strength determination for that particular class group. Strengths for BOD and TSS are determined for each class group shall be based on the following levels:

Class I:	BOD =	1,193 mg/L
	TSS =	526 mg/L
Class II:	BOD =	267 mg/L
	TSS =	1,079 mg/L
Class III:	BOD =	752 mg/L
	TSS =	423 mg/L
Normal Domestic Wastewater		
	BOD =	210 mg/L
	TSS =	240 mg/L

These strengths may be revised from time to time based on study information from the Federal, State, or local government.

**Sec. 82-305 – Commercial or Industrial User in Multiple Class Groups.**

If a commercial or industrial establishment contains operations from more than one class group and it is determined that the surcharge rate for a particular class group would not adequately compensate the City for its costs of treatment, then the Director of Public Works or his designee may assess an additional charge based on a proportional average of the class groups involved or he may require the commercial or industrial establishment to be billed for an abnormal surcharge which is based on the maximum values of BOD or TSS from either class group.

**Sec. 82-306 – Election for Surcharge Determination from Composite Samples.**

- (a) A commercial or industrial establishment placed into a class group may elect to have its surcharge determined on an annual basis from composite samples in lieu of the class averages provided that:
1. The establishment submits to the Director, in writing, a request to have its surcharge determined from composite samples in lieu of class averages;
  2. The requesting establishment installs, at their sole expense, a manhole or sample tee built to the Director's specifications and approved by the Director;

3. The requesting establishment obtains and strictly adheres to a self-monitoring procedure to include sampling and analyses as prescribed by the Director. Such collections and analyses shall be at the sole expense of the requesting entity. The City may provide monitoring after placement of the manhole or sample tee as provided in (2) above, with the requesting establishment compensating the City for its actual expenses; and
  4. The requesting establishment agrees and understands that the City shall obtain shock samples, either grab or composite, from the monitoring site for the purpose of checking the accuracy of the self-monitoring procedures and analyses prescribed above and that in the event of discrepancies, the City's data or the normal average strengths of the appropriate class, shall be used for determining the surcharge.
- (b) The laboratory employed by the requesting industry shall be approved by the Director prior to implementation of self-monitoring. Subsequent changes in the laboratory shall require prior approval.
  - (c) The results of the composite samples shall be made available and delivered to the Director by March 1st each year the requesting establishment elects to have its surcharge determined on an annual basis from composite samples under this Section. If the requesting establishment does not make results available and deliver them to the Director by March 1st, the election shall be invalid for that year and the establishment's surcharges shall be determined by class averages.

**Sec. 82-307 – Non-Class Establishments.**

The industrial surcharge for Significant Industrial Users shall be calculated individually (and not as part of a class group) in the same manner and under the same terms and conditions as if the SIU was initially a member of a class group and elected for a surcharge determination from composite samples in accordance with Section 80-306.”

**Section 2.**

The findings set forth above in the recitals of this Ordinance are incorporated into the body of this Ordinance as if fully set forth herein.

**Section 3.**

That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 4.**

Any complaint, notice, notice of violation, action, cause of action, hearing request, appeal, or claim which prior to the effective date of this Ordinance that has been initiated or arisen under or pursuant to Ordinance Number CSO#894-09-2018 or any other ordinance(s) shall continue to be governed by the provision of that ordinance or ordinances, and for that purpose that ordinance or ordinances shall be deemed to remain and shall continue in full force and effect.

**Section 5.**

That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

**Section 6.**

That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become a part of the Code of Ordinances of the City of Burleson, and that the sections of this ordinance may be renumbered or relettered to accomplish such intention.

**Section 7.**

That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

**Section 8.**

This Ordinance shall become effective immediately upon its passage and publication as required by law.

**Section 9.**

That a violation of this ordinance shall be a Class C misdemeanor and the penalty for violating this ordinance shall be as provided for in Section 1-14 of the Code of Ordinances of the City of Burleson which shall be a fine not exceeding \$2,000.00, and each day a violation exists shall be a separate offense.

**PASSED AND APPROVED:**

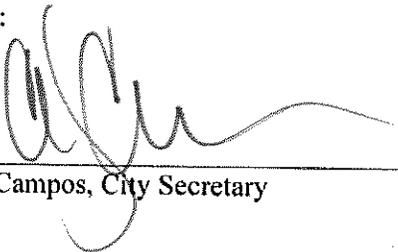
**First Reading:** the 3 day of September, 20 17.

**Final Reading:** the 16 day of September, 20 19.



Ken Shetter, Mayor  
City of Burleson, Texas

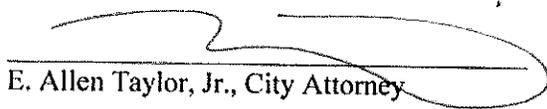
ATTEST:



Amanda Campos, City Secretary



APPROVED AS TO FORM & LEGALITY:



E. Allen Taylor, Jr., City Attorney

BY MATT RIBITZKI,  
DEPUTY CITY ATTORNEY