



**AGENDA
CITY OF BELTON
PLANNING COMMISSION
MEETING & PUBLIC HEARING
MONDAY, NOVEMBER 2, 2015 - 6:00 P.M.
CITY HALL ANNEX, 520 MAIN STREET**

- I. CALL MEETING TO ORDER**

- II. ROLL CALL**

- III. APPROVAL OF THE MINUTES OF THE OCTOBER 19, 2015 PLANNING COMMISSION MEETING**

- IV. PUBLIC HEARING**
 - A. Consideration of a Special Use Permit to allow a home childcare business at 8406 E. 166th Street.

 - B. Consideration of a Special Use Permit to allow a used car sales business at 100 Electronic Parkway.

 - C. Consideration of Text Amendments to Article III, Division II, Sec 42.259-272 of the Belton Unified Development Code (UDC), regarding sanitary sewer pretreatment, and to Article V, Sec 36-110 of the UDC regarding security for performance of erosion and sediment control measures.

- V. DISCUSSION**
 - A. Capital Improvement Program – Discussion and Possible Recommendation.

- VI. DIRECTOR'S REPORT**

- VII. NEXT MEETING DATE: NOVEMBER 16, 2015**

- VIII. ADJOURNMENT**

MEETING MINUTES

OCTOBER 19, 2015

Minutes of Meeting
Belton Planning Commission
City Hall Annex, 520 Main Street
October 19, 2015

CALL TO ORDER

Chairman Holly Girgin called the meeting to order at 6:00 p.m.

ATTENDANCE

Commission: Chairman Holly Girgin, Commissioners Sally Davila, Tim McDonough, Chris Christensen, Ryan Finn, Larry Thompson, Councilman Chet Trutzel and Mayor Jeff Davis.

Staff: Jay Leipzig, Community & Economic Director, Robert Cooper, City Planner, Megan McGuire, City Attorney, Jennifer Dutcher, Community Development Secretary, Jeff Fisher, Public Works Director, Zach Matteo, City Engineer and Kate Glowacki, Assistant City Engineer

Absent: Commissioner Chuck Crate

MINUTES

Commissioner Christensen moved to approve the minutes of the October 5, 2015 Planning Commission meeting. Commissioner Thompson seconded the motion. All members present voted in favor and the motion carried.

DISCUSSION

Mr. Leipzig opened the discussion for the continuance of the consideration of a special use permit to allow a home childcare business at 307 Apple Valley Parkway. Mr. Leipzig stated the public hearing was opened and closed at the September 21, 2015 Planning Commission meeting. There was a considerable amount of discussion that evening and the item was continued until the next meeting on October 5, 2015. Per the request of the applicant, the October 5, 2015 meeting was continued so that she could have an attorney present. Staff has talked to the attorney and will present the findings in this report.

Mr. Cooper presented the commission with a supplemental staff report updating the findings of the recent site visit. This supplemental staff report was also sent electronically to the applicant's attorney. Mr. Cooper indicated the supplemental staff report contains a copy of the current State of Missouri childcare license which expires in July 31, 2016 and a map identifying all of the childcare businesses within the city limits. Mr. Cooper continued the staff report citing a list of the September 21, 2015 public hearing concerns.

- No expectation of a business operating next to a private home in a residential neighborhood;
- Expectations of a quiet, peaceful and enjoyable home when come home from working all day;
- Safety issues at the home including car on jacks in driveway;
- Noise from the multiple children in the backyard can be heard at neighboring homes;
- Safety issue for the neighbors trying to mow and maintain their property with many children in yard;
- Devaluation and lack of marketability of the property with business activities running next door;
- Toys tossed over the fence into the neighbor's yard;
- Added traffic to this area of neighborhood.

Mr. Cooper then presented the results of the September 28, 2015 in-home visit citing the cramped space for the 6 to 8 children inside the home. Most of the children appeared to be age 5 or under; as some were situated in the front living room watching TV while the remaining children were in the kitchen eating. At that visit, Mrs. Gaston consented to Mr. Cooper taking pictures of the home. Mr. Cooper indicated he did not see any cars in disrepair, nor did he see a pool present in the yard. No children were outside of the home at the time of inspection. Mr. Cooper stated Mrs. Gaston has indicated she was looking to move from that location around April 2016 and she has receipts to show for the repair of the vehicle. Mr. Cooper indicated the Revised Statutes of the State of Missouri are listed within the supplemental staff report as he discussed the required floor space for each child coming into the home for day care. The Missouri Statutes state there must be at least 35 square feet of usable floor space for each child. Mr. Cooper indicated concerns for the usable space indicating the entire home is listed as 1300 square feet, with a downstairs playroom with the approximate size of 12x12 (144 square feet). Per the Revised Statutes of the State of Missouri, floor space shall not include food preparation areas, bathrooms, hallways used exclusively as passageways, closets, office space or floor space occupied by furniture or shelving not used by the children or for their activities. Space occupied by permanently placed cots, cribs, beds or playpens used for napping cannot be counted as usable floor space. Mr. Cooper indicated staff has concerns with overcrowding as Mrs. Gaston is also watching her own grandchildren. Care is provided for numbers upwards of 15 children at the home. Mr. Leipzig indicated he has been in touch with the applicant's attorney. Staff is willing to extend the special use permit for the home occupation day care until April 30, 2016, instead of the stated date on the supplemental staff report of April 1, 2016, at the request of Mrs. Gaston's attorney.

Mrs. Gaston addressed the commission indicating she has 2 other bedrooms licensed for the daycare facility each being 8x10 in size; she has three grandchild living with her. Chairman Girgin questioned if the related children count against the square footage ratio. Mr. Cooper indicated no they do not. Commissioner Christensen questioned if the grandchildren count towards the child to provider ratio. Mr. Cooper stated they are not part of the equation; only those children she is contracted to watch. Commissioner Christensen looked for verification that care could be provided for 12 related children and an additional 10 children. Mr. Cooper stated it's a life safety issue. The Fire Marshal can put restrictions for the number of children; he can also look for clear pathways. Mrs. Gaston stated she would never put 17 kids in a home at one time, 2 people cannot care of 17 kids properly. She has been in business for 37 years and has never had a child abused or harmed.

Chairman Girgin questioned the hours of operation. Mrs. Gaston stated she is licensed for 6 A.M. until 9 P.M., however, she chooses to close at 6:30 P.M. and only stays later if a parent is running late. Commissioner McDonough questioned verification of the number of children she cares for. Mrs. Gaston replied, she cares for 10 full time daycare children; 3 grandchildren are in school all day; 1 grandson she cares for, and some of the children go home at 3:00 P.M. Mrs. Gaston continued to express her grandchildren are separate from the daycare ratio, and she cannot force them to go to a separate playroom. She indicated she has cared for some of the same children for 11 years. Commissioner Thompson stated the main issue with 10 kids appears to be a shortage of square feet available in the home. Mr. Cooper indicated he received a copy of the inspection report and no mention of any violations of the square footage has been listed. Historically, the city has never gone into home daycares to look at square footage, egress or potential building code issues. The city is looking more closely into these items; however, nothing is listed in the states reports. Mrs. Gaston indicated the state counted one bedroom towards the available square footage. The Fire Marshal and Health Department has been through the entire home and has not found anything unsafe. Commissioner Thompson questioned if Mrs. Gaston has a plan to find a business location. Mrs. Gaston stated she hasn't thought that far yet. She talked with all the neighbors last night and every one of them agreed they could have one year to save and relocate to an area accepting of a daycare. She also stated she may have to keep just 4 children if the city will allow her. Commissioner Trutzel stated the neighbors were very adamant as to what they wanted to have happen and he also

addressed the issues listed with the fence gate. Mrs. Gaston stated her grandson opened the gate and picked up the rocks. She has spoken with the neighbor that complained and told him to let her know if he has anymore issues. She also indicated one daycare child threw a rock while under the supervision of her own mother. Commissioner Trutzel also questioned if Mrs. Gaston contacted all the neighbors that were present at the meeting. Mrs. Gaston stated she spoke with the neighbors behind her and the neighbor next door; she indicated they all said they were okay with them staying one year. Commissioner Christensen asked if the city Fire Marshal inspected the location. Mr. Cooper stated no, it is the state Fire Marshal. Councilman Trutzel questioned Mr. Leipzig if the attorney recommendation was the end of April. Mr. Leipzig stated when the attorney saw the staff report listing April 1st 2016 he called back and discussed the date of April 30th stating that would be sufficient.

Councilman Trutzel moved to approve the application effective to April 30, 2016, seconded by Commissioner Thompson.

Chairman Girgin stated we have a motion and a second to approve the special use permit for the home occupation daycare located at 307 Apple Valley Parkway until April 30, 2016.

Commissioner McDonough wished to clarify what happens at the end of April 2016. Mr. Leipzig stated their business license will be void for the special use permit; we will have full authority to follow up on the license. Mr. Cooper stated the city clerk will be advised the special use permit has ended and the license will revert to a regular home based daycare license allowing 4 children. Mr. Cooper continued to say staff will advise the applicant and monitor the location. Commissioner Thompson questioned what happens after April 30th and if she hasn't moved, does the city shut her down or can she request an extension. Mr. Leipzig stated the city would either shut them down depending on the circumstances or an extension could be applied for, however, the applicant would go through all the steps to bring an extension request to the Planning Commission. Mr. Leipzig stated the city would have full enforcement capabilities. Commissioner Thompson restated an extension will be at the discretion of the Planning Commission. Mr. Leipzig stated yes, that was correct, it would be at the discretion of the commission. Mayor Davis requested any input from the city attorney. Mrs. McGuire stated she helped prepare and advise the supplemental staff report so that we could have a full and fair evaluation of the issues.

Vote on the motion to approve the special use permit to allow a home childcare business at 307 Apple Valley Parkway effective until April 30, 2016 was taken, and the following vote recorded, **Ayes: 6** – Chairman Holly Girgin, Commissioners Tim McDonough, Chris Christensen, Larry Thompson, Councilman Chet Trutzel and Mayor Jeff Davis.

Noes: 2 – Commissioners Sally Davila and Ryan Finn

Absent: 1 – Commissioner Chuck Crate

Motion carried.

Mr. Matteo presented the Capital Improvement Program via slide show citing the program as 23 projects, five maintenance programs containing the following categories: Drinking Water, Wastewater, Transportation, Stormwater and Facilities. The report indicated one program and 12 projects listed within Transportation, one program and two projects listed within Drinking Water, two programs and three projects listed within Wastewater, one program and four projects listed within Stormwater and two projects listed within Facilities.

ADJORNMENT

Commissioner McDonough moved to adjourn the meeting. Seconded by Commissioner Christensen. All members present voted in favor and the meeting adjourned at 7:02 p.m.

Jennifer Dutcher
Community Development Secretary

Consideration of a Special Use Permit to allow a home childcare business at 8406 E. 166th Street.



**BELTON MISSOURI - PLANNING COMMISSION
REGULAR MEETING – CITY COUNCIL ROOM
CITY HALL ANNEX, 520 MAIN STREET
MONDAY, NOVEMBER 2, 2015 – 6:00 P.M.**

STAFF: Robert G. Cooper, City Planner

CASE #SUP15-23

Request: Special Use Permit to allow a home child care business to operate on property zoned R-1 (Single-Family Residential) District.

Location: Addressed as 8406 E. 166th Street.

Property Description: Bel-Ray Estates, Lot 254

Deed Holder / Applicant: Aaron Chai / Andrea Kelly

Size of Site: 143-ft. x 86-ft. (12,298-sq. ft.) / 0.28-acre

Existing Zoning / Land Use: R-1 / Single-Family Residential

Proposed Use: Home Child Care

Surrounding Zoning / Land Use:

North: R-1 / Single-Family Dwelling
East: R-1 / Single-Family Dwelling
South: R-1 / Single-Family Dwelling
West: R-1 / Single-Family Dwelling

Future Land Use Map: SFR (Single-Family Residential)

SPECIAL USE PROVISION – *Some uses of land are not appropriate in all locations within a district or under circumstances where the use imposes an inappropriate impact on the public or neighboring properties and are therefore designated as “special uses”. These uses may be approved at a particular location through the receipt of a special use permit where the impact of those users does not inappropriately affect or impair the use and enjoyment of neighboring properties.*

Code Citation:

Pursuant to Section 40-3(6) of the Unified Development Code, ‘daycare homes and centers with more than four (4) children must have a Special Use Permit’.

Nature of Current Request

The applicant currently has a home daycare license, which allows her to watch no more than four (4) unrelated children. Mrs. Andrea Kelly wishes to watch up to ten (10) unrelated children in accordance with her State issued license. In order to increase the number of unrelated children under her care, city code requires a special use permit.



Aerial view of the surrounding area

History

The subject property is addressed as 8406 E. 166th Street, which is part of the Bel-Ray Estates residential subdivision, located on the city’s northeast side.

The 1,357-sq. ft. residential house at 8406 was originally constructed in 1976 as a one-story wood-frame, which has six (6) rooms with three (3) of them as bedrooms, with two (2) full size bathrooms, including a full basement. There is an attached garage with an added rear concrete wing for a double stacking capacity of four (4) vehicles.

STAFF REPORT

BALANCE OF RIGHTS AND ACTIVITIES:

- Use of private property.
- Need in the community for quality day care services.
- Residential neighborhood not zoned for business or commercial type activities.

- Expectation of quiet enjoyment of residential property.
- Home occupation opportunities that do not look, feel or smell like a commercial operation.
- Special Use Permit process to explore parameters of this home occupation exception.

WELFARE AND CONVENIENCE OF THE PUBLIC

Staff believes that by allowing a home child care business at the proposed location could contribute to the welfare and convenience of the public.

INJURY TO SURROUNDING PROPERTY

It appears, at face value, the proposed use will not have an adverse affect on the surrounding or abutting properties due to the nature of the business. However, any home business has the potential to injure surrounding properties, e.g. traffic, and noise.

DOMINATION OF THE NEIGHBORHOOD

It appears to staff, the proposed use as a home day care will not dominate the neighborhood. All of the adjoining residential Lots within the immediate neighborhood have a minimum lot size of 0.25 and 0.35 of an acre. These moderately large residential lots will help mitigate any potential negative affect a use of this type may produce.

OFF-STREET PARKING / ACCESS

The Unified Development Code requires, “one (1) parking space for every 600-s.f. of gross-floor area (gfa)”. Based on the total square footage of the house; two (2) off-street parking spaces must be provided. Currently, there are no restrictions for on-street parking along 166th Street.

There is direct access from 166th Street, which is the primary and only source of ingress/egress. Due to the scheduling scheme of the business owner and relatively low volume of users, no additional access or traffic calming devices are needed.

Generally, parents will be dropping their children off in the mornings between 7:00 and 9:00 with no more than two (2) cars at a time allowing for the passenger car-door to face curbside. (Exhibit A).

SIGNAGE

Pursuant to Section 40-4 of the Unified Development Code, home based business are allowed one (1) non-illuminated wall sign, not to exceed two-square feet and shall match the house in color and design.

The applicant has indicated she will not be using any type of advertising from her house.

FENCED AREA

City code requires that any outdoor play-area used for recreation by a pre-school or child care center, must be enclosed by a fence no less than 42-inches in height.

The applicant has provided a fenced-in outdoor play-area for the children (Exhibit B).

ADDITIONAL GUIDELINES AND/OR QUESTIONS

- STAFF’S REQUEST FOR COPY OF STATE LICENSE:
- HOW MANY ASSISTANTS WILL BE ON SITE AND AVAILABLE?
- WHAT TYPE OF OUTDOOR SUPERVISION WILL BE PROVIDED?

REVIEW OF PERTINENT STATE DEPARTMENT OF HEALTH AND SENIOR SERVICES DAY CARE LICENSE REQUIREMENTS:

19 CSR 30-61.085(2)(B)(1), (2), (3) and (4) Physical Space Ratio:

At least thirty-five (35) square feet of usable floor space shall be provided for each child coming into the home for day care. Floor space shall be measured wall-to-wall from the inside wall of areas used for children’s activities. Floor space shall not include food preparation areas, bathrooms, hallways used exclusively as passageways, closets, office space or floor space occupied by furniture or shelving not used by the children or for their activities. Space occupied by permanently placed cots, cribs, beds or playpens used for napping cannot be counted as usable floor space. Cots shall not be set up early or left in place to interfere with children’s play activities.

Staff Recommendation

Approval of the home childcare business.

Planning Commission Alternatives

The Planning Commission has the following options available in the consideration of this application:

1. Approve the application as submitted upon finding that the requirements of Section 40, of the Unified Development Code for Special Use Permits, as been satisfactorily addressed.
2. Approve the application subject to specified conditions.
3. Table the application if additional information is needed, such as time of use or other related factors.
4. Deny the application if the required findings cannot be made or if the proposed use is found to be incompatible with the neighborhood.

Attachments:

1. Copy of “Andrea’s Angel Academy” Business Plan
2. Exhibit ‘A’ / Photo of child drop-off / pick-up area
3. Exhibit ‘B’ / Photo of outdoor fenced play area

FILE COPY

OCT 13 2015

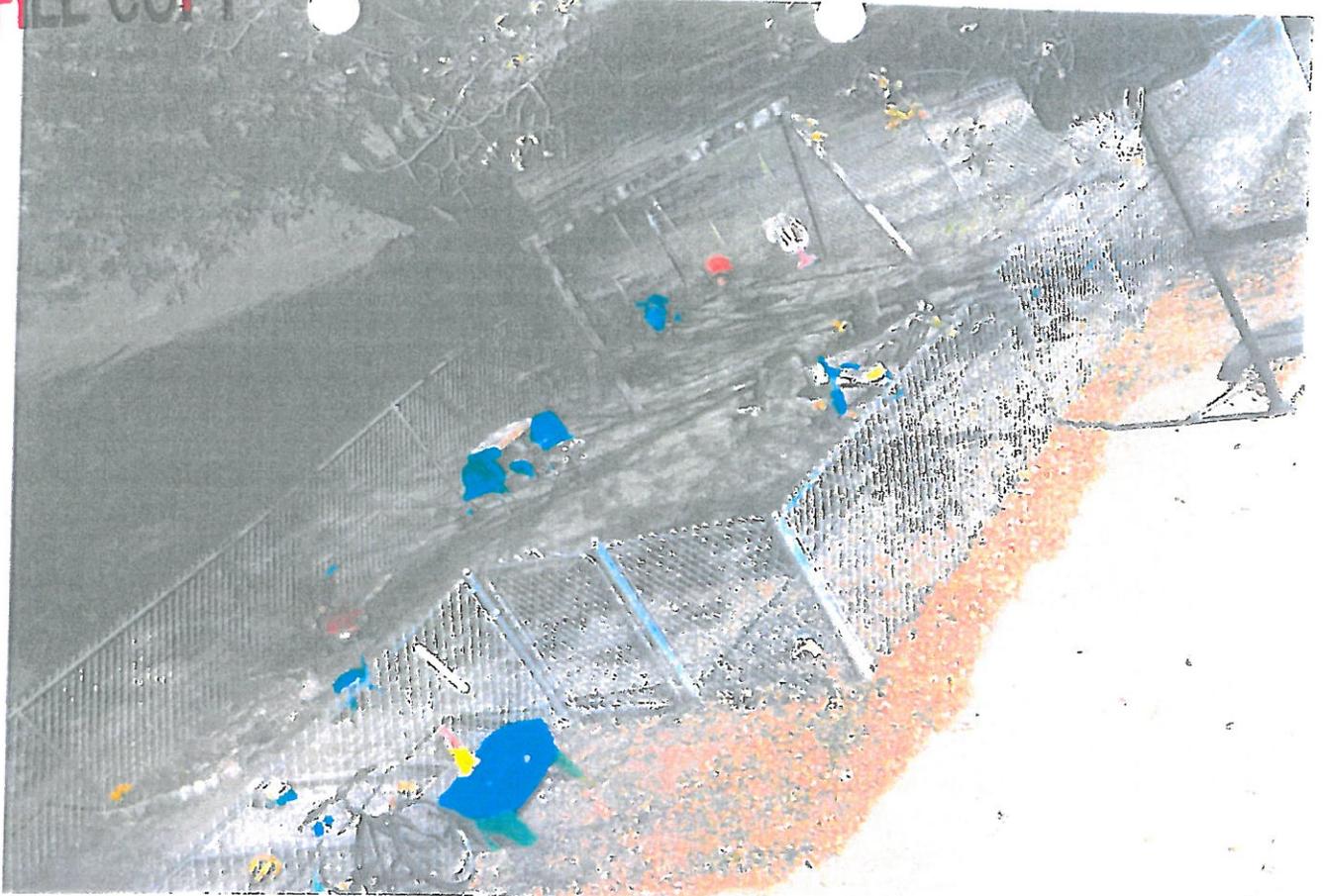


EXHIBIT 'B'

Andrea's Angel Academy

Business Plan 10/10/2015

8406 E. 166th St. andreasangelacademydirector@yahoo.com
Belton, MO 64012 www.andreasangelacademy.com

816-425-4247

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Executive Summary

Mission Statement

Andrea's Angel Academy has a vision of a caring, safe, affordable, yet high quality child care facility, strictly serving the best interest of each child in our care. We make a promise to parents that your child will be cared for the way you would want for them to be cared for. We want parents to have no doubt in their mind that their child is in the hands of someone who has every intention of standing by his/her side while he/she grows socially, physically, intellectually, creatively, and emotionally.

Andrea's Angel Academy will meet each need of every child to the best of our ability, and your child will learn to possess confidence, high self-esteem, compassion, intellect, respect, honesty, and sincerity. Children will be praised constantly, rewarded for good deeds, and encouraged to be brave and do their best.

The goal of Andrea's Angel Academy is not to simply provide child care, but to provide a home away from home environment where your child is free to be their own unique, individual, happy self! We will have a wonderful time together gaining new experiences every day.

Objectives

The objective of Andrea's Angel Academy is to continue providing high quality child care and Kindergarten prep learning, in a home away from home environment.

2015 – Our goal is to increase our enrollment to a capacity of no more than 10 children at any given time. We do offer 24/7 care, with less children enrolled during the overnights/weekend shifts than during the day.

2016 – Our goal is to continue our enrollment providing a much needed service to the residents of Cass County. There are very limited options for 24/7 care or even extended hours care in Cass County, and it's our mission to service this need.

Description of Business

Company Ownership/Legal Entity

Andrea's Angel Academy is owned by Andrea & Robert Kelly. The Academy is currently going through the Special Use Permit process with the City of Belton. It is also licensed by the State of Missouri Department of Health and Senior Services under the name Andrea Kelly. The Academy has plans to become accredited in the future. It is also approved by the State of MO Sanitation Dept. as well as the State Fire Marshall.

Location

Andrea's Angel Academy is currently ran from the basement of the owner's home at 8406 E. 166th St., Belton, MO 64012.

Interior

The interior of the Academy's current space is one basement room used as the primary play, learning, eating, and sleeping area for all children in care. There is also an infant room to the side of the primary child care room where infants and toddlers play. The bathroom and the kitchen are upstairs. The upstairs is also a licensed space except for the bedrooms, and care is provided upstairs sometimes during the evening/weekend/overnight shifts.

Hours of Operation

Andrea's Angel Academy is open 7 days a week, 24 hours a day.

Services

Andrea's Angel Academy offers child care to the residents of Belton, MO and surrounding areas. We offer care 7 days a week with extended daily hours in order to serve a larger percentage of the population that works outside of the traditional work schedule. Andrea's Angel Academy cares for children ages newborn – 12 years of age.

Our pre-school students are cared for with affection and love, but are given much more room to develop their independence. Pre-school students are introduced to their alphabet, numbers, colors, and shapes. These children experience new learning situations each day and are taught with a hands-on approach. Our pre-school students are encouraged to participate in certain activities with the older children. This promotes a desire to be more curious and eager about the topics.

Our pre-K students are given affection as needed/desired. Pre-K at the Academy is a time for strong academic development. Children in this age group at the Academy will begin reading skills, writing skills, and will memorize their personal information such as phone number and address. Our Pre-K students are not only ready for Kindergarten, but are often above Kindergarten level on

several of their skills. Children in this age group will learn through real life experiences along with following a curriculum.

Andrea's Angel Academy focuses on growth of the whole child. Each child in our care will develop at or above their age appropriate development level. We perform assessments on each child every year so that we know where a child is lacking, which in turn lets us know the areas that we need to expand upon with that particular child. Our children are taught as a group, but are also given strong attention to their individual needs.

Suppliers

Andrea's Angel Academy is not likely to have any regular suppliers. All furniture and equipment that is to be used in the Academy will be purchased from different sellers, both retail and private parties, and is already in place at the Academy. We supply meals to the students that are cooked on location. The Academy staff will be responsible for all building maintenance and grounds keeping, and will not be contracting an outside company for any work related to these items.

Customer Service

Andrea's Angel Academy provides extremely high quality care to all students. Each student is cared for and taught as an individual, and their needs are observed and met on a constant basis. We strive to provide a home away from home environment for each student as well as provide them with a structured, intellectually stimulating schedule in order to prepare them for Kindergarten once they reach the pre-K level.

Andrea's Angel Academy treats each family with respect. Not only are we serving our students, but we are serving their families as well. In an effort to give back to our community we will provide services to our families who are in need of assistance such as a clothing and toy closet, meals around the holidays, and free parenting classes. We will also offer Parents Night Outs once a month.

Our staff keeps an open line of communication at all times with all parents, and we acknowledge and take into consideration any special needs that the child/family may have while we are providing care. We maintain an open door policy for all current students and their families, and prospective students and their families.

Management

Currently the owner Andrea Kelly is acting as Owner/Primary Teacher.

I have over 20 years of experience working with children. I have a CNA certification. I am First Aid and BLS certified. I hold a Bachelor's of Social Science w/ an Education Concentration and a minor in Sociology.

I have gained management experience through previous jobs as well as with owning my own company. I have experience with accounts payable/receivable, supervising 30 employees, scheduling and payroll for 140 employees, and case management for 15 persons with developmental disabilities. I have had several jobs that have placed me in high stress situations. I have had several jobs that have required my problem-solving and multi-tasking abilities, and I have always strived for perfection in the jobs that I have had. I believe my work and life experience along with my education have laid a strong framework for great success in running my own business.

Financial Management

Andrea's Angel Academy will provide a positive cash flow which will continue to grow over the next year, and then will balance out every year thereafter. Since the cash flow will increase over the next year, and our expenses will remain the same over time, we will continue to make a profit.

The finances are handled by the Director, and are mostly automated through daycare and accounting software.

Marketing

Competition

There are a few home daycares in Belton. There are a few daycare centers in Belton. However, to the best of my knowledge, there are not any non-denominational licensed facilities which are open 7 days a week, and offer pre-school along with child care which are affordable and as flexible with hours as we are.

Andrea's Angel Academy will never become a large corporation because I want to keep the personal, intimate feel with our families. Our child care families are seen as an extension of our family. They are not just a check for us. We are investing in their children, in their future, and in their education.

Our prices are average. We are not the cheapest, nor are we close to the most expensive. Our prices keep us competitive.

Advertising and Promotion

Andrea's Angel Academy will advertise and promote through a variety of ways. We utilize social media such as Facebook, YouTube, Pinterest, and Twitter. We also advertise on Craigslist and through word of mouth. We have a website with a blog which not only provides an alternate form of communication for current parents, but is also a great advertisement. We use a car magnet and place business cards at various locations through town. We have an ad on www.yelp.com. We have also placed flyers in grocery stores and other public places. All of these methods of advertisement have been at little to no cost to us. We do not use now and do not plan to use signs on our property.

We will track which advertising methods are working best by asking prospective parents how they heard about us. We will also offer an incentive to current families who refer new families to our school.

Strategy and Implementation

Andrea's Angel Academy has been in business for two years already. We have established a reputation with the families that we currently serve, and we have a waiting list which means that people are excited about what we have to offer their children. Since we are already in existence I am well aware of what it takes to run this business.

Consideration of a Special Use Permit to allow a used car sales business at 100 Electronic Parkway.



**PLANNING COMMISSION REGULAR MEETING
CITY HALL ANNEX, CITY COUNCIL ROOM
520 MAIN STREET
MONDAY, NOVEMBER 2, 2015 – 6:00 P.M.**

STAFF: Robert G. Cooper, City Planner

CASE #SUP15-22

Request: Special Use Permit to allow a used auto sales business to operate in a C-2 (General Commercial) District.

Location: Located on the east side of N. Scott Avenue, just north of Peaceful Homes MHP. The physical address is 100 Electronics Pkwy.

Property Description: Un-platted

Deed Holder / Applicant: Once Source Home Maintenance / Brian Cox, Owner

Size of Site: 365,904-sq. ft. / 8.4-acre(s)

Existing Zoning / Land Use: C-2 / General Commercial

Proposed Use: Used Car Sales Lot

Surrounding Zoning / Land Use:

North: C-2 & M-1: Commercial & Manufacturing
East: C-2 : Commercial
South: C-2 & R-3: Commercial & MHP
West: C-2 : Commercial

Comprehensive Plan: Commercial

Nature of Current Request

The applicant has contacted the City to gather information on what requirements are needed to open a used car lot. Pursuant to Chapter 40-1 of the Unified Development Code, a Special Use Permit is required for all 'new' used car lots located within a C-2 (General Commercial) zoning district.

The applicant (Brian Cox) currently owns and occupies the subject property...using it for his business, One Source Home Maintenance, LLC, a home remodel, lawn and landscape company, servicing the greater Kansas City area. He wishes to open a used car dealership to supplement his home remodeling business to help counter the down time. Access to this 8.4-acre tract of land is by gaining entry from N. Scott Avenue through a 240-foot long cherry-stem driveway.

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Aerial view of surrounding area

HISTORY

The commercial building was originally built in 1962 with a gross floor area (gfa) of 9,962-sq. ft. which was used as a warehouse. Since then, the building and portions of the property been used as a warehouse and outdoor storage periodically, by heavy commercial users; i.e. auto repair, general contractor's, etc.

STAFF REPORT

Welfare and Convenience of the Public

It appears, by permitting a used car lot in the proposed location, would contribute greatly to an ongoing proliferation of used car lots along the N. Scott Avenue corridor. It also appears there could be a negative affect on the welfare and convenience of the general public, particularly the multi-family residential housing, which abuts the property.

Injury to Surrounding Property

It appears the proposed use will have an adverse affect on the immediate surrounding or abutting properties due in part to an already heavily congested area with multiple commercial users.

Domination of the Neighborhood

The proposed use as a used car sales lot will add to the predominance of that particular use within the North Scott corridor.

Off-Street Parking / Access

There is an open grassy field, approximately 5,381-square feet in size, which can be used for customer parking and as a display area, for approximately two (2) to four (4) vehicles. Currently, there is a single access to the site...from N. Scott Avenue, which would be the only source of ingress/egress to the site.

The area is heavily congested with commercial and residential traffic. Due to the age of the development, and the property being un-platted, creates an area that is experiencing uncontrolled,

chaotic growth with blighted sections. The site has numerous curb-cuts with un-controlled access will lead to an increase in traffic flow and a potential traffic hazard. The area that will be utilized for the used car will need to be large enough for all vehicles; i.e. customer, and sales vehicles, to adequately maneuver and/or park in a safe manner.

The driveway surface area is currently in good condition and free of weeds and grass. Every parking space shall be clearly demarcated by lines painted on or otherwise applied to the parking lot surface.

ADA Parking

Pursuant to Section 26-8(2)(f), Unified Development Code, 'all accessible parking spaces must be identified by signs complying with the manual of Uniform Traffic Control Devices and the Department of Justice, Code of Federal Regulation 28 CFR, part 36, ADA Standards for Accessible Design...the sign must be vertically mounted on a post or wall, no more than five (5') feet from the space, include the wording: 'FINE - \$50 - \$300'.

Pursuant to Section 1106.1, IBC – ADA / Accessible Parking Spaces, this location will be required to provide one (1) ADA accessible parking stall in accordance with city design and layout specifications.

Signage

The existing building has no signage. A separate permit is required for any new signage per Section 30-8 of the Unified Development Code.

Landscaping / Screening

Due to the close proximity of opposing zoning districts and the type of land uses, combined with Section 40-3(3) of the UDC, Site and Space Requirements for new and used car lots, which applies a 100-foot separation distance from an established residential zoning district.

Therefore, pursuant to Section 22-7, Unified Development Code:

- (a) Opaque Screen – 'Type A'. An Opaque Screen is intended to 'exclude all visual contact between uses and to create a strong impression of special separation.'
- (b) Height. 'Type A' screens must be opaque from the ground to a height of at least six-feet
- (c) Materials and Installation. The opaque screen may be composed of a wall, vinyl fence, landscaped earth berms, planted vegetation or existing vegetation. When a wall or fence is used, it must be articulated every 50-feet.

NOTE: It was explained to the applicant that an Occupational License can not be approved until the Planning Commission approved the Special Use Permit and that no business activity can take place on site until final approval by the City Council.

Staff Recommendation

Should the Planning Commission wish to approve Special Use Permit 15-22, to allow a used car sales lot to be located at 100 Electronics Parkway, the following condition(s) shall apply:

1. Special Use Permit 15-22 shall be annually renewed and reviewed administratively barring any code violations and/or complaints;
2. The parking area shall be on a hard surface (no gravel) stripped, and located per City's Exhibit 'A', and shall consist of no more than four (4) display vehicles;
3. No material, supplies, or merchandise shall be stored outdoors;
4. No auto repair work shall be conducted outdoors; and
5. A Landscaping Screen shall be provided, to be in accordance with Exhibit 'A'.

Planning Commission Alternatives

The Planning Commission has the following options available in the consideration of this application:

1. Approve the application as submitted upon finding that the requirements of Chapter 40, Special Use Permits, of the Unified Development Code have been satisfied.
2. Approve the application subject to specified conditions.
3. Table the application if additional information is needed, such as time of use or other related factors.
4. Deny the application if the required findings cannot be made or if the proposed use is found to be incompatible with the neighborhood.

Attachments:

- 1) Letter from the applicant
- 2) Exhibit 'A' / Site Plan

FILE COPY

OCT 06 2015

ONE SOURCE

HOME MAINTENANCE, LLC

September 30, 2015

Belton Planning Commission
520 Main St.
Belton, MO 64012

Re: Special Use Permit:

The intent of this letter is to present our plan to open a used car dealership to supplement our current business located at 100 Electronics Parkway. One Source currently is a home remodel, lawn and landscape company servicing the greater Kansas City area. We plan on adding used car sales as an additional revenue source to counter seasonal business cycles. We are planning on having one to four cars for sale at any one time. We will park customers and cars for sale in existing parking spaces on the south side of the existing building, see map. Employees park in the rear of the building. If you have any additional questions, please contact me at [816-547-8600](tel:816-547-8600) or bcx2212@gmail.com.

Sincerely,

Brian Cox
Co-Owner

Staple's exhibit



EXHIBIT 'A' / SITE PLAN

Consideration of Text Amendments to the Belton Unified Development Code (UDC).



*CITY OF BELTON – PUBLIC WORKS
MEMORANDUM*

Date: October 28, 2015
To: Planning Commission
From: Public Works
Subject: Industrial Pretreatment Ordinance

Federal and state regulations through Environmental Protection Agency (EPA) and Missouri Department of Natural Resources (MDNR) require standards for local agencies to identify, permit and regulate discharges to local agencies' wastewater collection systems from industrial users. Typically, contributors of nondomestic pollutants are required to remove or mitigate their waste streams through pretreatment before the sewage enters a public collection system. Objectives of federal pretreatment standards are provided in Title 40 of the Code of Federal Regulations:

- a. To prevent the introduction of pollutants into Publicly Owned Treatment Works (POTWs) which will interfere with the operation of a POTW, including interference with its use or disposal of municipal sludge;
 - b. To prevent the introduction of pollutants into POTWs which will pass through the treatment works or otherwise be incompatible with such works; and
 - c. To improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.
- (40 CFR 403.2)

These requirements are typically addressed by local agencies through an "industrial pretreatment" program. The City of Belton currently has pertinent code discussing pretreatment requirements, but through benchmarking staff has determined that enhancements to current code, including the adoption of a permitting process of industrial users, are necessary.

Approximately half of the City's sewage contribution (the northeastern half of the City) discharges to the Little Blue Valley Sewer District (LBVSD). The district currently has and enforces pretreatment requirements including permitting. ROM Corporation for example is inside the LBVSD boundaries and recently obtained a permit through LBVSD to pretreat and discharge industrial wastes to the LBVSD system. The southwestern half of the City contributes sewage to the City of Belton's Wastewater Treatment Facility (WWTF). Currently, there are no industrial users that would require pretreatment within the Belton WWTF boundaries. However, in anticipation of future growth and possible annexation long-term to the west and south, it is recommended to enhance current code to be prepared for an industrial user in the Belton WWTF boundary.

Staff proposes multiple changes to Chapter 42 – Water and Sewers of the City's Unified Development Code to formally adopt a comprehensive industrial pretreatment program. Much of this code is based on current LBVSD regulations. Consistency in the regulations between the two wastewater districts is important for effective administration of the City's program.

Create Section 42-204 under Article III Division II

Sec. 42-204. - Authority.

- 1) The purpose of this Article is to provide for the maximum possible beneficial public use of the City's facilities through adequate regulation of sewer construction, sewer use and commercial and industrial wastes and to provide procedures for complying with requirements placed upon the City by other regulatory bodies.
- 2) The City/District is authorized and directed to carry out the provisions of this division governing the quality of sewage that may be discharged into the public sewers of the City/District.

Revise Article III Division II Sec 42.230 Definitions with the following:

Sec. 42-230. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

As used in this division:

Act shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 United States Code (USC) 1251.

Authorized representative of industrial user shall mean:

- a. A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;
- b. A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;
- c. A duly authorized representative if the industrial user is a governmental entity;
- d. A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the industrial waste originates.

BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees centigrade, expressed in parts per million by weight.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal.

CFR shall mean the Code of Federal Regulations.

City shall mean the City of Belton, Missouri.

Commercial and industrial wastes shall mean water-carried wastes from commercial and industrial establishments as distinct from sanitary sewage.

City shall mean the Public Works City of the City or its authorized representative.

City or City's system shall mean the interceptor, trunk and connecting sewers including manholes, access, junctions, metering, sampling and related structures; pump stations, treatment plants and support facilities; land, easements, and rights-of-way; all as may be acquired from others, whether interim or permanent facilities and whether acquired or constructed as initially planned facilities or extensions thereof.

Combined sewer means a sewer receiving both surface runoff and sewage.

Dilute or *dilution* shall mean the increase in the use of process water or in any other way attempting to dilute a discharge as a partial or complete substitution for adequate treatment.

District shall mean the Little Blue Valley Sewer District, a common sewer district incorporated pursuant to Sections 204.250 to 204.470 of the Revised Statutes of Missouri, as amended, or its duly appointed administrator.

District regulations for use and industrial pretreatment program shall mean the District's regulations, duly enacted and adopted pursuant to authority granted by Sections 204.250 and 204.470 of the Revised Statutes of Missouri, as amended, governing the rendering of wastewater disposal service to customers and users of the District within its service area, as such District regulations for use and industrial pretreatment program may be amended from time to time.

District system or *District's system* shall mean the interceptor, trunk and connecting sewers including manholes, access, junctions, metering, sampling and related structures; pump stations, treatment plants and support facilities; land, easements, and rights-of-way; all as may be acquired from others, whether interim or permanent facilities and whether acquired or constructed as initially planned facilities or extensions thereof.

EPA shall mean the Environmental Protection Agency.

Garbage means solid wastes from the preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Industrial user shall mean an industrial manufacturing process, trade, business or governmental entity, including agencies of the United States government and their agents, which generates wastes and is a source for the introduction of nondomestic pollutants into the sewerage system.

Industrial wastes means the liquid wastes from industrial processes as distinct from sanitary sewage.

Interference shall mean:

- a. A discharge which alone or in conjunction with a discharge or discharges from other sources causes the inhibition of treatment processes or other disruption of the sewerage system including prevention of wastewater sludge use or disposal in accordance with applicable State and Federal criteria.
- b. The discharge of pollutants which adversely affect the waters of the State or causes a violation of any requirements of the sewage treatment plant's NPDES permit (including an increase in the magnitude or duration of a violation).

Local limits shall mean the numerical discharge limitations, determined through analytical techniques placed on pollutants by the City/District.

National categorical pretreatment standards or categorical standards shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act or found 40 CFR Subchapter N, Parts 401—471 which applies to a specific category of industrial users.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Natural watercourse shall mean a channel or location in which a flow of water occurs, either continuously or intermittently.

Normal sewage shall mean sewage which contains not over three hundred and fifty (350) parts per million of suspended solids and not over three hundred (300) parts per million of B.O.D. by weight, and which does not contain any of the materials or substances listed in Section 42-260.

Parts per million shall mean a weight-to-weight ratio; the parts-per-million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water.

Pass through shall mean a discharge of pollutants as defined in 40 CFR 403.5(a) which exits the sewerage system into waters of the State or of the United States in quantities which may serve to cause a violation of the sewage treatment plant's NPDES permit.

Person shall mean any individual, partnership, firm, company, corporation, association, governmental entity or any other generally recognized entity.

pH shall mean the logarithm to the base ten (10) of the reciprocal of the number of gram ionic hydrogen equivalents per liter of solution.

Plant upset shall mean a temporary reduction in performance of a sewage treatment plant which may have been caused by wastewater discharged by industrial users.

Pollutant shall mean any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, cheat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

Pretreatment shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharge of such pollutants into the sewerage system.

Pretreatment requirement shall mean any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

Pretreatment standard shall mean any regulation containing pollutant discharge limits promulgated by the EPA, State or District which applies to industrial users.

Prohibited discharge standard shall mean any pretreatment standard developed pursuant to 40 CFR 403.5 and as specified in the District's regulations for use and pretreatment rules.

Properly ground garbage shall mean garbage that has been ground to such degree that all particles will be carried freely under the flow conditions normally prevailing in the City sewers, with no particle greater than one-half inch in any dimension.

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

Public sewer means a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

Receiving stream shall mean any natural watercourse into which sewage is discharged.

Sanitary sewer means a sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

Sanitary sewage shall mean those wastes which are comparable to wastes which originate in residential units and contain only human excrement and wastes from kitchen, laundry, bathing, and other household facilities.

Sewage shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such groundwaters, surface waters, and stormwaters as may be present.

Sewage treatment plant shall mean any arrangement of devices and structures used for treating sewage.

Sewage works shall mean all facilities for collecting, transporting, pumping, treating, and disposing of sewage.

Sewer shall mean a pipe or conduit for carrying sewage.

Shall is mandatory; "may" is permissive, subject to approval by the City.

Significant industrial user shall mean industrial user who:

- a. Is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; or is a standard industrial classifications industry; or
- b. Has a process discharge flow of twenty-five thousand (25,000) gallons or more per average work day, or contributes five (5) percent or more of the process wastestream of the average dry weather hydraulic or organic capacity of sewerage system; or
- c. Is designated by the City, MDNR or the EPA on the basis that the industrial user, either singly or in combination with other contributing industries has a reasonable potential for adversely affecting the sewerage system's operation or for violating any pretreatment standard or requirement; or
- d. Upon finding that an industrial user meets any part of the criteria above but has no reasonable potential for adversely affecting the sewerage system's operation or for violating any pretreatment standard or requirement, the City/District may in accordance with 40 CFR 403.8(P)(6) determine that such industrial user is not a significant industrial user.

State shall mean the State of Missouri.

Storm sewer or storm drain means a sewer which carries stormwaters and surface waters and drainage, but excludes sewage and polluted industrial wastes.

Suspended solids shall mean solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids, and which are removable by standard laboratory methods.

User shall mean any person discharging sewage to the sewage works.

Wastewater shall mean the liquid and water-carried domestic or nondomestic wastes from residences, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the District's system.

Waters of the State shall mean all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private which are contained within, flow through, or border upon the State or any portion thereof.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

Delete Article III Division II Sec 42-263 – Maintenance of pretreatment facilities

Revise title of Article III Division II Sec 42-259

~~Wastes prohibited~~ changed to Nonindustrial wastes prohibited

Replace Article III Division II Sec 42-262 with the following

~~Sec. 42-262 – Wastes conditionally permitted; pretreatment~~

Sec. 42-262 – Industrial Pretreatment Requirements and Permitting

- a. Applicability
- b. Acceptability of wastewater.
- c. Unusual wastes.
- d. Permitting provisions
- e. Regulatory control; condition, modification and transferring of permit.
- f. Inspection and sampling.
- g. Reports, tests of commercial and industrial wastes.
- h. Reporting requirements for permittee.
- i. Grease, oil and grit interceptors.
- j. Pretreatment facility.
- k. Accidental discharge.
- l. Enforcement.

a. Applicability

Section 42-262 shall apply to all industrial users and industrial wastes per the definitions provided in Section 42-230.

b. Acceptability of wastewater.

The following materials, substances, and wastes shall not be discharged into the sewers:

- 1) Pollutants which create a fire or explosion hazard in the POTW including, but not limited to wastestreams with a closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Centigrade) using the test methods specified in 40 CFR 261.21. A lower limit may be prescribed to prevent odor nuisance.
- 2) Wastes having a pH less than 6.0 or greater than 9.0 or otherwise having chemical properties which are hazardous or are capable of causing damage to the sewerage works or personnel.
- 3) Garbage that has not been properly shredded or ground.
- 4) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through. Insoluble oils, fats, greases. So called soluble oils may be admitted to the extent of one hundred (100) mg/l.
- 5) Any solid or viscous material which could cause an obstruction to flow in the sewers or in any way interfere with the treatment process. Examples of such materials include, but are not limited to, ashes, wax, paraffin, cinders, sand, mud, straw, shavings, metal, glass, rags, lint, feathers, tars, plastics, wood and sawdust, paunch

manure, hair and fleshings, entrails, lime slurries, beer and distillery slops, grain processing wastes, grinding compounds, acetylene generation sludge, chemical residues, acid residues, and food processing bulk solids.

- 6) Wastes containing phenolic compounds over ten (10) parts per million expressed as phenol.
- 7) Wastes containing cyanides or compounds capable of liberating hydrocyanic acid gas over two (2) parts per million expressed as hydrogen cyanide.
- 8) Wastes containing sulfides over ten (10) parts per million expressed as hydrogen sulfide.
- 9) Chlorinated solvents.
- 10) Septic tank sludge, except that pre-approved by the City.
- 11) Any corrosive, noxious or malodorous material or substance which, either singly or by reaction with other wastes, is capable of causing damage to the sewerage works or creating a public nuisance or hazard, or prevent entry into the sewers for maintenance and repair.
- 12) Concentrated dye wastes or other wastes which are either highly colored or could become colored by reacting with other wastes.
- 13) Pollutants which result in the presence of toxic gases, vapors or fumes within the sewerage works in a quantity that may cause acute worker health and safety problems.
- 14) Any trucked or hauled pollutants, except at discharge points designated by the City.
- 15) Any material or substance not specifically mentioned in this section which is in itself corrosive, irritating to human beings and animals, toxic or noxious, or which by interaction with other wastes could produce undesirable effects, including deleterious action on the sewerage works, adversely affect any treatment process, constitute a hazard to humans or animals or have an adverse effect upon the receiving stream.
- 16) Any discharge by an industrial user which causes pass through or interference, or causes an NPDES permit violation is prohibited.
- 17) Additionally, any discharge which violates the general and specific prohibited discharge standards set forth in 40 CFR 403.5(a) and (b) hereby incorporated, pretreatment standards, is prohibited. Compliance with all general and specific prohibitions shall be mandatory and shall not be waived.

c. Unusual wastes.

- 1) The introduction of radioactive wastes into the City sewers shall be permitted only if a special permit is obtained prior to introducing such wastes. While each case will be decided on its own merits, in general, decisions will be in accordance with the principles laid down in the Atomic Energy Act of 1954 (68 Stat. 919), Part 20, Sub-Part D-Waste Disposal, Section 20.303, or successor principles as established by the Atomic Energy Commission.

- 2) Wastes which are unusual in composition, i.e., contain an extremely large amount of suspended solids or B.O.D., are high in dissolved solids such as sodium chloride, calcium chloride, or sodium sulfate, contain substances conducive to creating tastes or odors in drinking water supplies or otherwise making such waters unpalatable even after conventional water purification treatment, or are in any other way unusual, shall be reviewed by the City/District, which will determine whether such wastes shall be prohibited from or may be admitted to the City sewers or shall be modified or treated before being admitted.
- 3) Wastes, which in the judgment of the City/District, are unusual or highly variable in volume, shall be subject to flow equalization or other forms of regulation as deemed necessary by the City/District.
- 4) No industrial user whose discharged sewage is treated by the District shall discharge sewage containing any pollutant in excess of the local limits of the Little Blue Valley Sewer District and City.
 - a. The City may apply these or other limits to sewage treated by sewage treatment plants other than those of Little Blue Valley Sewer District and City as the City determines to be necessary applying generally accepted standards in making such determination.
 - b. In the event of conflict between local, State, or Federal regulations, the most stringent regulation shall apply as determined by the City.
- 5) No industrial user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in any pretreatment standard.

d. Permitting provisions.

- 1) Permits for discharges to the Little Blue Valley Sewer District and City shall be processed and issued by the City/District. Permits for discharges to systems other than the Little Blue Valley Sewer District shall be processed and issued by the City. The City shall submit to the District names and addresses of potential industrial permittees. All new industrial users planning to discharge to the sewage system shall return a completed industrial user (IU) survey questionnaire to the appropriate agency before discharging to the system. The City/District may require any industrial user, whether or not classified as significant, to obtain an industrial user discharge permit. The City/District shall be responsible for directing industrial users to the appropriate agency.
- 2) All new industrial users classified as significant shall obtain an industrial user discharge permit before discharging to the sewage works. The permits of all existing industrial users shall be subject to review by the City/District and imposition of regulations consistent with this division within one hundred eighty (180) days after adoption of this division.
- 3) Information and data on a user obtained from reports, questionnaires, applications, permits, monitoring programs and inspections shall be available to the public or any government agency without restriction unless the user specifically requests and is able

to demonstrate to the satisfaction of the City/District that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets. When requested by the person furnishing a report, and until such time as the information is determined not to be 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 upon written requests from governmental agencies for purposes related to this division and/or pretreatment programs; provided that, such portions of a report shall be available for use by the City, the District, or any governmental agency in judicial review or enforcement proceedings involving the user furnishing the report. Sewage constituents and characteristics shall not be recognized as confidential information. Information accepted by the City/District as confidential shall not be transmitted to any governmental agency or any person seeking such information by means of judicial process until and unless a ten (10) day notification or such lesser time as may be ordered by any court having jurisdiction, is given to the user furnishing the information for the purpose of giving such person the opportunity to contest said transmittal.

- 4) *Industrial user discharge permits application.* Industrial users required to obtain an industrial user discharge permit shall complete and file with the City/District an application in the form prescribed by the City/District. The City/District will evaluate the data furnished by the industrial user and may require additional information. After evaluation and acceptance of the data furnished, the City/District may issue an industrial user discharge permit. Industrial users required to obtain an industrial user discharge permit shall be required to obtain an industrial user discharge permit prior to or concurrently with obtaining a building permit.
- 5) *General.*
 - a. In addition to the provisions otherwise contained in this division, all industrial users discharging directly or indirectly into the City/District system are subject to and shall comply with all applicable provisions and requirements set forth in the Act, national categorical pretreatment standards, pretreatment requirements, prohibited discharge standards, and City/District regulations for use and industrial pretreatment program. Industrial users shall also comply with any specific local limits developed and implemented by the City or the District.
 - b. The District and City shall deny or condition new or increased contributions of pollutants or changes in the nature of pollutants to the District's or City's system by industrial users where such contributions do not meet applicable pretreatment standards or requirements or where such contributions would cause the District or City to violate its NPDES permit.
 - c. In addition to permitting requirements otherwise contained in this division, the District may issue industrial user discharge permits in accordance with its regulations for use and industrial pretreatment program.

e. Regulatory control; condition, modification and transferring of permit.

- 1) Industrial users discharging to the District shall be subject to regulatory control of the City and the District. Industrial users discharging to systems other than the District shall be subject to regulatory control of the City.
- 2) Industrial user discharge permits for discharges to the District shall be expressly subject to all provisions of this division and other conditions as deemed appropriate by the District using generally accepted standards to ensure compliance herewith. In addition to any user discharge quality criteria otherwise contained in this division, industrial users shall comply with and be subject to the wastewater quality criteria and standards set forth in the District's regulations for use and industrial pretreatment program, or any permit issued which causes pass-through or interference. Industrial users shall also comply with specific discharge prohibitions contained or incorporated by reference therein. Notwithstanding any provision of this division, compliance with all general and specific prohibitions shall be mandatory and shall not be waived.
- 3) Permits may contain the following:
 - a. The average and maximum sewage constituents and characteristics;
 - b. Limits on rate and time of discharge or requirements for flow regulations and equalization;
 - c. Requirements for installation of inspection and sampling facilities;
 - d. Pretreatment requirements;
 - e. Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number and types of tests, and reporting schedules;
 - f. Requirements for submission of technical reports or discharge reports;
 - g. Requirements for maintaining plant records relating to sewage discharge as specified under this section, and affording the City access thereto;
 - h. Mean and maximum mass discharge rates, or other appropriate limits when incompatible pollutants are proposed or present in the user's sewage discharge;
 - i. Other conditions as deemed appropriate by the City/District to ensure compliance with this division;
 - j. Requirements for amending the permit if discharge is significantly changed.
- 4) The terms and conditions of the permit may be subject to modifications by the City/District during the term of the permit as limitations or requirements as identified in this section are modified or other potentially dangerous conditions exist. The user shall be informed of any proposed changes in a permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- 5) Industrial user discharge permits are issued to a specified industrial user for a specific operation. Industrial user discharge permits shall not be reassigned or transferred to a different person, new industrial user, different premises, or a new or changed operation without the approval of the City/District. Any succeeding person or industrial user shall be required to apply for a new permit.

- 6) Industrial user discharge permits issued by the City/District shall be expressly subject to all provisions of the City's/District's regulations for use and industrial pretreatment program and other conditions as deemed appropriate by the City/District to ensure compliance with said regulations. The City/District Administrator may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards, or in other cases where the imposition of mass limitations are appropriate. Permits shall be issued for three (3) years.

f. Inspection and sampling.

- 1) Any duly authorized representative of the City/District possessing proper credentials and identification shall be permitted to enter all properties at reasonable times for the purpose of inspection, observation, measurement, sampling and testing, and may make photocopies of such records during the inspection, in accordance with the provisions of this division.
- 2) The City/District may randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify independent of information supplied by industrial users, occasional and continuous noncompliance with pretreatment standards.
- 3) Monitoring facilities and activities.
 - a. Significant industrial users shall provide and maintain at their own expense monitoring facilities to allow inspection, sampling and flow measurement and self-monitoring as required by the City's/District's regulations for use and industrial pretreatment program or any permit issued thereunder. The frequency of City/District monitoring of industrial users will be determined by the City/District.
 - b. The monitoring facility shall normally be situated on the user's premises and not be obstructed by landscaping or parked vehicles, but the City/District may, when such location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

g. Reports, tests of commercial and industrial wastes.

- 1) Any person discharging commercial and industrial wastes to the City sewers shall submit to the City/District at such intervals as it may prescribe a report accurately describing the character and quantity of all such wastes other than sanitary sewage discharge to the City sewers during the period covered by such report. In order to ensure compliance with this division, the City/District may at any time take such measurements, collect such samples, and run such laboratory analyses on representative samples of any wastes as may be deemed necessary. Cost of such analyses shall be assessed against the discharging person.
- 2) All measurements, tests, and analyses performed by such person or by the City/District shall be in accordance with techniques prescribed in the latest revision of Title 40, Code of Federal Regulations, Part 136, or successor documents as designated by the City/District.

- 3) All users subject to this division shall retain and preserve for not less than three (3) years, any records, books, documents, memoranda, reports, correspondence and any and all summaries, thereof, relating to monitoring, sampling and chemical analyses made by or in behalf of a user in connection with its discharge. All records which pertain to matters which are the subject of administrative action or any other enforcement or litigation activities brought by the City/District shall be retained and preserved by the user until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

h. Reporting requirements for permittee.

- 1) Within ninety (90) days following the date for final compliance with applicable pretreatment standards, the permittee may be required to submit a report indicating average and maximum daily flows and concentrations or mass of all pollutants from the regulated processes. The report shall also set forth whether or not the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the industrial user into compliance with the applicable pretreatment standards or requirements. Such report shall be signed by an authorized representative of the industrial user, and certified by a registered engineer or other appropriate qualified professional.
- 2) Any industrial user holding an industrial user discharge permit requiring a compliance schedule, after the compliance date specified in such permit, shall submit semiannually to the City/District, unless required more frequently in the permit, a report indicating the concentrations or mass of pollutants in the effluent which are limited by such permit. In addition, the report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported on the permit application.
- 3) The reports required by Subsection B. of this section shall contain the results of sampling, Chain of Custody and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the City/District, of pollutants contained therein which are specified by the industrial user discharge permit. Upon consent of the City/District, flows may be estimated on the basis of water consumption. The frequency of monitoring shall be prescribed in the permit.
- 4) In addition to the reporting requirements otherwise contained in this division, all industrial users shall submit to the City/District any and all information and reports required by the District, its regulations for use and industrial pretreatment program, or by the Act or by 40 CFR 403.12, including without limitation all applicable required: Baseline monitoring reports, compliance schedule progress reports, sampling analysis reports, periodic progress reports, notice of potential problem reports, notice of changed discharge, and noncategorical industrial user reports.
- 5) Substantial change in discharge. All industrial users shall notify the District/City of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents prior to the introduction of such constituents into the City/District's system.

- 6) Hazardous waste. Industrial users shall immediately notify the City, District Administrator, and the EPA Regional Waste Management Division Director of the Missouri Waste Program in writing of any discharge into the City's/District's system of a substance, which, if otherwise disposed of, would be a hazardous waste under, 40 CFR part 261. Such notification shall be given in the manner and include the items set forth in 40 CFR 403.12.
- 7) Accidental discharge. Industrial users shall immediately report to the District/City any accidental discharge as required by the City's/District's regulations for use and pretreatment rules.
- 8) Signatory and certification requirement. Any industrial user report submitted pursuant to 40 CFR 403.12(b), (d) or (e) shall be signed and certified by an authorized representative of industrial user.

i. Grease, oil and grit interceptors.

Refer to Sections 42-260 and 42-261 for requirements pertaining to grease, oil and sand interceptors.

j. Pretreatment facility.

Any facilities required to pretreat sewage to a level acceptable to the City/District shall be provided and maintained at the user's expense. Plans, compliance schedules, and operating procedures shall be submitted to the City/District for review, and shall be acceptable to the City/District before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City/District under the provisions of this division.

k. Accidental discharge.

- 1) Each industrial user shall provide protection from accidental discharge of substances regulated by this division or other toxic pollutants. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the industrial user's own cost and expense. The City/District may require that detailed plans showing facilities and operating procedures to provide this protection be submitted to the City/District for review, and be approved by the City/District before construction of the facility. Review and approval of such plans shall not relieve the industrial user from the responsibility to modify the facility as necessary to meet the requirements of these rules.
- 2) In the case of the accidental discharge, it is the responsibility of the industrial user to immediately telephone and notify the City/District of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrosive actions. The City shall notify the District of potentially dangerous spills within the City's collection system discharging to the District.
- 3) Within five (5) days following an accidental discharge, the industrial user shall submit to the City/District a detailed written report describing the cause of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such

notification shall not relieve the user of any liability which may be imposed by this rule or other applicable law resulting from such discharge.

- 4) In the event of a plant upset at the District's facility the City shall assist in any investigation into the cause.
- 5) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees of the emergency notification numbers to call in the event of an accidental discharge. Employers shall ensure that all employees who may cause, suffer or become aware of such an accidental discharge are advised of the emergency notification procedure.

I. Enforcement.

- 1) *City Notification of violation.* Whenever the City/District finds that any industrial user has violated or is violating the City or District's regulations for use and industrial pretreatment program, or a permit or order issued thereunder, the City/District or its agent may serve upon said user written notice of the violation. Within ten (10) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the City/District. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Said person shall permanently cease all violations within the period of time stated in the notice and shall certify to the City/District that the correction has been accomplished.
- 2) Either as an alternative to any procedure established in this division or as an enforcement action thereunder, the City/District may seek injunctive relief for noncompliance with any provision of this division. In those areas discharging to the District, injunctive relief may be sought directly by the District as well as by the City.
- 3) Industrial users discharging to the City or District systems shall be subjected to the following:
 - a. *Notification of violation.* Whenever the City finds that any industrial user discharging to the City or District systems has violated or is violating any provisions of this division, the City or its agent may serve upon said user written notice of the violation. Within ten (10) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the City. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Said person shall permanently cease all violations within the period of time stated in the notice and shall certify to the City that the correction has been accomplished.
 - b. If the violation is not corrected by timely compliance, or if a satisfactory correction plan is not submitted within said ten (10) day period, the City may order any user to show cause before the City why enforcement action should not be taken. Not less than ten (10) days written notice shall be served on the person violating these provisions specifying the time and place of a hearing before a City representative, the reason the action is to be taken, and the proposed

enforcement action. The City may propose any enforcement action reasonably necessary to abate the violation, including discontinuation of sewage service. Based upon the evidence presented at the hearing, the City shall determine the appropriate enforcement action which should be taken, if any. This determination may be appealed by filing a written petition with the Mayor within ten (10) days of the City's ruling. The Mayor shall fix a reasonable time for hearing the appeal before the Council of the City of Belton and shall give not less than ten (10) days' written notice to the user involved stating the time and place of the hearing. The Council shall promptly render a decision on the appeal and notify the user of its decision.

- c. With respect to any person found to be violating any provisions of this division who shall continue such violation beyond the time limit provided in Subsection D.1. of this section or after a final decision on the action to be taken pursuant to Subsection D.2. of this section, the City may refer the matter to the City Attorney or Prosecutor for action, and upon conviction of said person shall be subject to punishment in accordance with Section 1-13.A. of the Code of Ordinances of the City of Belton, Missouri. Each day in which such violation shall continue shall be deemed a separate offense.
 - d. Notwithstanding the procedures established in this division, in the event of an actual or threatened discharge to the sewage works which, in the judgment of the City, presents or may present an imminent and substantial danger to life, safety or sewerage system operation or integrity, the City may temporarily terminate such service as is necessary to avoid or abate such condition. Service shall be restored as soon as the emergency situation has been corrected. The City's decision to terminate service may be appealed by written petition to the Mayor pursuant to the provisions for hearing set forth in Subsection D.2. of this section. However, appeal of the decision shall not stay termination of the service.
 - e. In cases of repeated violations, the City/District may revoke the permit for the discharge of wastes into the sewage works, and discontinue water or sewage service, or both following written notice to the permittee of not less than ten (10) days providing an opportunity for said permittee to address a written petition to the Mayor requesting a hearing before the Council with respect to said revocation. The hearing shall be set within a reasonable time after receipt of the hearing request from the permittee. Following the hearing, the Council shall promptly announce its decision and provide a copy to the permittee.
- 4) Industrial users discharging to the City/District shall be subject to the City's/District's rules and regulations and industrial pretreatment program and shall be subject to enforcement measures by the City/District as authorized by State law, included but not limited to the following:
- a. *Consent orders.* The District may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance

within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders.

- b. *Show cause hearing.* The City/District may order any industrial user which causes or contributes to violation of the City's/District's regulations for use and industrial pretreatment program or industrial user discharge permit order issued thereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate officer of the user. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.
- c. *Compliance order.* When the City/District finds that an industrial user has violated or continues to violate the City's/District's regulations for use and industrial pretreatment program or a permit or order issued thereunder, the City/District may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.
- d. *Cease and desist orders.* When the City/District finds that an industrial user has violated or continues to violate the City's/District's regulations for use and industrial pretreatment program or any permit or order issued thereunder, the City/District may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
 - i. Comply forthwith;
 - ii. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.
- e. *Administrative fines.* Any user who is found to have violated any provision of the City's/District's regulations for use and industrial pretreatment program, or permits and orders issued thereunder, shall be fined in an amount not to exceed one thousand dollars (\$1,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the City/District shall have such other collection remedies as it has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such fines must file a request for the City/District to reconsider the fine

within ten (10) days of being notified of the fine. Where the City/District believes a request has merit, it shall convene a hearing on the matter within fifteen (15) days of receiving the request from the industrial user.

f. *Emergency suspensions.*

- i. The City/District may suspend the wastewater treatment service and/or the industrial user discharge permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the City's/District's system, or the environment.
- ii. Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its contribution. In the event of the user's failure to immediately comply voluntarily with the suspension order, the City/District shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the City's/District's system, its receiving stream, or endangerment to any individuals. The City/District shall allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in Subparagraph E.7. hereinbelow are initiated against the user.
- iii. An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any further occurrence to the City/District prior to the date of the hearing described in Subparagraph E.2. hereinabove.

g. *Termination of permit.* Any user who violates the following conditions of the City's/District's regulations for use and industrial pretreatment program or an industrial user discharge permit or order, or any applicable State or Federal law, is subject to permit termination:

- i. Violation of permit conditions;
- ii. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- iii. Failure to report significant changes in operations or wastewater constituents and characteristics;
- iv. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling;
- v. Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under Subsection E.2. why the proposed action should not be taken.

h. *Judicial remedies.* If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of the

City's/District's regulations for use and industrial pretreatment program or any order or permit issued thereunder, the City/District, through counsel, may commence an action for appropriate legal and/or equitable relief in the Circuit Court for Jackson and/or Cass County.

- i. *Injunctive relief.* Whenever an industrial user has violated or continues to violate the provisions of the City's/District's regulations for use and industrial pretreatment program or permit or order issued thereunder, the City/District, through counsel may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the industrial user. The City/District shall have such remedies to collect these fees as it has to collect other sewer service charges.
- j. *Civil penalties.*
 - i. Any industrial user who has violated or continues to violate the City's/District's regulations for use and industrial pretreatment program or any order or permit issued thereunder, shall be liable to the City/District for a civil penalty of not more than one thousand dollars (\$1,000.00), plus actual damages incurred by the City/District per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the City/District may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.
 - ii. The City/District shall petition the court to impose, assess, and recover such sums. In determining amount of liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.
- k. *Criminal prosecution.*
 - i. Any industrial user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to the City's/District's regulations for use and industrial pretreatment program, or industrial user discharge permit, or renders inaccurate any monitoring device or method required under the City's/District's regulations for use and pretreatment rules shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than one (1) year or both.
 - ii. In the event of a second conviction, the user shall be punishable by a fine not to exceed three thousand dollars (\$3,000.00) per violation per day or imprisonment for not more than three (3) years or both.

- iii. Such enforcement measurements shall be undertaken by the City/District in a manner authorized by State law and in the instances and following procedures set forth in the City's/District's regulations for use and industrial pretreatment program developed in accordance with 40 CFR 403.8(f)(5), which shall contain detailed procedures indicating how the City/District will investigate and respond to instances of industrial user noncompliance.