

(New language is underlined, in red, or red and underlined and repealed language has a line through it)

51.001 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOD (BIOCHEMICAL OXYGEN DEMAND). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter.

BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system which received the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewers, beginning five feet (one and one-half meters) outside the inner face of the building walls.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

CHANGE IN USE. Changes defined in development, including conversion from residential to any other use including multifamily uses, and shall include an increase or change in the sewage strength, pH, character, or potential discharge of hazardous substances.

COLLECTION SYSTEM. The system of public sewers to be operated by the city designed for the collection of sanitary sewage.

COMBINED SEWER. A sewer receiving both surface runoff and sewage.

COMMERCIAL INDEPENDENT DISCHARGE. Any business or industry which possesses an independent licensed and permitted wastewater discharge system. Any classification must maintain independent facilities with approval of appropriate regulatory agencies and provide discharge of domestic waste to the public treatment works.

COMMERCIAL USER. Any premises used for commercial or business purposes which is not an industry as defined in this chapter.

CONTROL AUTHORITY. The City of Hermiston.

DEVELOPMENT. The conversion or change in character of occupancy or use of a building which would place the structure in a different building group as defined in the Uniform Building Code; the erection of a new structure; the demolishing of existing buildings for the conversion of property to a differing use; the creation of gasoline pumps, drive-up windows, traffic islands or similar alterations which channelize, alter or increase the traffic volume or pattern on adjacent roadways.

DEVELOPMENT, for purposes of this chapter, shall not mean interior remodeling, repairs, maintenance or improvements to any existing structure which does not increase the volume of the structure. Specifically exempted under this chapter are building facades, roof or exterior wall repair or replacement, heating, ventilating or electrical alterations, or activities similar in character.

DEVELOPMENT SITE. An area consisting of a parcel, lot or tract of land to be altered or developed. All required areas to meet parking standards and similar requirements for a particular development

shall be included in the term; however, the total property ownership of the proponent will not be considered in the site if it is not necessary to the development.

DOMESTIC WASTE. Any wastewater emanating from dwellings or from domestic activities which are performed outside the home in lieu of a home activity directly by or for private citizens.

DWELLING UNIT. Any housing unit with sanitary and kitchen facilities designed to accommodate one or more residents, multiple housing units, mobile homes and trailer spaces, but excluding commercial or transient housing units such as hotel and motel units and retirement homes with ten or more units under one roof, containing therein a dining room facility regularly open a minimum of six days per week and designed for the use of the residents and their guests. Independent laundry facilities serving multifamily, mobile homes and trailer units shall be considered a dwelling unit for billing purposes.

FEE IN LIEU OF ASSESSMENT. A charge payable upon the connection to the sewage works or the development of property.

GARBAGE. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

INDUSTRIAL USER.

- (1) Any nongovernmental, nonresidential user of a public treatment works (PTW) which discharges more than the equivalent of 25,000 gallons per day (gpd) of sanitary wastes and which is identified in the North American Industry Classification System Manual, 2015, as amended and supplemented under one of the following subsections:
 - (a) Agriculture, forestry and fishing;
 - (b) Mining;
 - (c) Manufacturing;
 - (d) Transportation, communications, electric, gas and sanitary services; and
 - (e) Services.
- (2) In determining the amount of a user's discharge for purposes of industrial cost recovery, the grantee may exclude domestic wastes or discharges from sanitary conveniences.

INDUSTRIAL WASTE. That portion of the wastewater emanating from an IU which is not domestic waste or waste from sanitary conveniences.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

OPERATION AND MAINTENANCE. All activities, goods and services which are necessary to maintain the proper capacity and performance of the treatment works for which the works were designed and constructed, including replacement as defined hereinafter.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than a half-inch (1.27 centimeters) in any dimension.

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights and is controlled by a public authority.

PUBLIC TREATMENT WORKS. A treatment works owned and operated by a public authority.

REIMBURSEMENT AGREEMENT. An agreement whereby the city agrees to reimburse for the cost of city-required sewer facilities beyond that meeting minimum standards or oversized to serve other properties. This may include SDC credits, reimbursement from city funds or creation of a reimbursement district or other mechanism whereby properties connecting to the sewer facilities reimburse the person who paid for the cost of installing the facility. The total reimbursement shall not exceed the cost attributable to exceeding minimum standards or oversizing. No reimbursement agreement shall exceed ten years.

REPLACEMENT. Acquisition and installation of equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which the works were designed and constructed.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface and groundwater are not intentionally admitted.

SERVICE AREA. All the area served by the treatment works and for which there is one uniform user charge system.

SEWAGE. A combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with the ground, surface and storm waters as may be present.

SEWAGE TREATMENT PLANT. An arrangement of devices and structures used for treating sewage.

SEWAGE WORKS. All facilities for collecting, pumping, treating and disposing of sewage.

SEWER. A pipe or conduit for carrying sewage.

SLUG. Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

STORM DRAIN or STORM SEWER. A sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUBDIVIDER. A person who partitions or subdivides property.

SUSPENDED SOLIDS. Solids that either float on the surface or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

TAMPER. Any unauthorized alteration or attempted alteration of any component of the sewer or water system, including but not limited to disconnecting or turning on or off sewer or water service or tapping into the sewer or water system, regardless of whether damage to the system occurs. It also includes unauthorized alteration of pollution monitoring or other equipment required by and relied on by the city to compute rates or determine compliance with this chapter.

USER. The person who is responsible for the payment of the sewer system charges.

USER CHARGE. The periodic charges levied on all users of the public treatment works and shall, at a minimum, cover each user's proportionate share of the cost of operation and maintenance.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.

51.002 DEPOSITING OBJECTIONABLE WASTES.

- (A) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or other objectionable waste.
- (B) It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage, hazardous substances or other polluted waters, except where suitable treatment has been provided in accordance with this chapter.

51.003 PRIVY VAULTS AND THE LIKE; CONNECTION TO PUBLIC SEWER REQUIRED.

- (A) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
- (B) The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer shall, at their expense, install suitable toilet facilities therein, and connect to the facilities directly with the proper public sewer in accordance with the provisions of this chapter within 90 days after date of official notice to do so; provided, that the public sewer is within 300 feet of the property line. This requirement does not prohibit vaults or privies temporarily provided in association with construction and in accordance with all Oregon State Health Division regulations or other applicable regulations.
- (C) Should sewage be discharging to natural outlets, the ground surface, or into domestic water supplies, connection may be required within five working days of notification to connect. The person required to make the connections shall pay all fees and charges contained herein.

51.004 PRIVATE SEWAGE DISPOSAL.

- (A) Where a public sanitary sewer is not within 300 feet, the building sewer shall be connected to a private sewage disposal system complying with the requirements of the applicable regulatory agencies.

- (B) Upon connection to a public sewer disposal system, the owner shall clean, abandon, and eliminate the private sewage system in accordance with applicable regulations.

- (C) The owner shall operate and maintain private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

51.005 TAMPERING WITH SEWER SERVICE EQUIPMENT.

- (A) No unauthorized person shall tamper with or break, damage, destroy, uncover or deface any structure, accessories or equipment which is a part of the sewage works. Any person violating this provision shall be liable to the city for its costs to restore and repair or replace any item damaged and may be subject to prosecution.

- (B) Service may be terminated for an intentional violation of this section or for failure to reimburse the city for damages. Ten days' notice and an opportunity to appeal in the same manner as a delinquency shall be provided.

- (C) The city may require payment of any tampering fee, service reinstatement, connection fee or other fees established by resolution of the City Council.

51.006 SEWER MAIN CONSTRUCTION.

- (A) The city may cause the provision of wastewater service to be interrupted or terminated when necessary for repair, connection, extension and other times as shall be necessary to maintain and extend the sewer system.

- (B) The minimum size of wastewater mains required to serve any part of the city shall be eight inches. Any developer or subdivider shall install the necessary wastewater system and all appurtenant work at its sole expense. Should a development require wastewater mains in excess of eight inches, the city will make the final decision on the size of the mains to be installed by the developer or subdivider. The actual size of public sewers required for subdivision or development shall be determined by the city based on design flows for maximum consumption. If the city requires the developer or subdivider to install wastewater lines in excess of eight inches to provide for wastewater capacity to serve other properties, the developer may be eligible for systems development charge credits. If such credits are not available or are inadequate to reasonably reimburse the developer or subdivider for that portion of the cost attributable to the oversizing, the city may enter into a reimbursement agreement, form a local improvement district or use other options to address costs attributable to oversizing.

- (C) All public sewers required to serve a subdivision or development shall be installed by the developer or subdivider. Detailed plans and specifications in accordance with standards promulgated by the city shall be formally approved by the city and no construction shall commence until approval is granted in writing and, at the option of the city, a preconstruction conference is held with the developer or subdivider and contractors involved in construction, and the city.

- (D) All public sewer extensions shall be made to the farthest point of land upon which a development occurs so far as it is technically and geographically feasible. The added cost

of extending the sewer beyond that necessary to serve the property may be eligible for SDC credits, a reimbursement agreement or local improvement district as provided in subsection (B) of this section.

(E) The city may construct any public sewer necessary for the utility system. Connection to any public sewer may be subject to connection, reimbursement or other fees adopted by resolution of the City Council.

(F) All public sewers shall be dedicated to the city upon formal acceptance by the city on behalf of the city. In no case shall any public sewer connected to the city system be held in any ownership other than that of the city. The installer of the public sewers shall guarantee the installation for one year from the date of acceptance by the city.

PUBLIC SEWER USE

~~51.020 UNPOLLUTED DISCHARGES.~~

~~51.020 [RESERVED]~~

~~51.021 [RESERVED]~~

~~51.022 [RESERVED]~~

~~(A) No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.~~

~~(B) Storm water and all other unpolluted drainage shall be maintained on site, discharged to the sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the city. Industrial cooling water or unpolluted process waters may be discharged, only on approval of the city and applicable regulatory agencies, to a storm sewer, combined sewer or natural outlet.~~

~~(C) Storm water drainage systems shall be adequately sized, properly placed and maintained in a proper state of repair.~~

~~(D) No person shall discharge water in violation of any other provision of law, including §§ 51.092 and 94.05.~~

~~51.021 PROHIBITED DISCHARGES.~~

~~No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:~~

~~(A) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;~~

~~(B) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant;~~

including but not limited to cyanide in excess of two mg/l or CN in the wastes as discharged to the public sewer;

(C) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works; or

(D) Solid or viscous substances in quantities or of the size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails, and paper dishes, cups, milk containers, etc.; either whole or ground by garbage grinders;

(E) Anything prohibited to be discharged by state or federal law, including any applicable NPDES or other regulatory permit.

~~51.022 RESTRICTED SUBSTANCES AND WASTES.~~

No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the city that the wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming opinion as to the acceptability of these wastes, the city will give consideration to the factors as to quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(A) Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C).

(B) Any water or waste containing fats, gas, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees F (0 and 65 degrees C).

(C) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the city.

(D) Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solutions, whether neutralized or not.

(E) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement to the degree that any material received in the composite sewage at the sewage treatment works exceeds the limits established by the city for the materials.

(F) Any waters or wastes containing phenols or other taste- or odor-producing substances in concentrations exceeding limits which may be established by the city as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies having jurisdiction over the discharge or the receiving waters.

~~(G) Any radioactive wastes or isotopes of the half-life or concentration as may exceed limits established by the city or not in compliance with applicable state or federal regulations.~~

~~(H) Any waters or wastes having a pH in excess of 9.5.~~

~~(I) Materials which exert or cause:~~

~~(1) Unusual concentrations of inert suspended solids (such as but not limited to fuller's earth, lime slurries and lime residues) or of dissolved solids (such as but not limited to sodium chloride and sodium sulfate).~~

~~(2) Excessive discoloration (such as but not limited to dye wastes and vegetable tanning solutions).~~

~~(3) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.~~

~~(4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.~~

~~(5) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to the degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.~~

51.023 ACTIONS AVAILABLE TO CITY ADMINISTRATION.

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in 51.094022, and which in the judgment of the city may have a deleterious effect upon the sewage works, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the city may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of § 51.076.

(B) If the city permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the city and subject to the requirements of all applicable codes, ordinances and laws.

~~51.024 GREASE, OIL AND SAND INTERCEPTORS.~~

51.024 [RESERVED]

~~(A) A grease interceptor shall be installed on all building sewers for all commercial and multiple dwelling unit users. Any conversion to commercial or multiple dwelling use shall be required to install a grease interceptor. The requirement for a grease interceptor may be waived by the city when a written request is filed indicating all of the following:~~

~~(1) The waste stream from the commercial establishment meets the terms of domestic waste defined in this chapter; and~~

~~(2) No kitchen facilities for public service, or service to more than ten residents or dwelling units as defined herein.~~

~~(B) Oil and sand interceptors shall be required when they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients; except that the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the city and shall be located as to be readily and easily accessible for cleaning and inspection. The city shall make the final determination of the requirements.~~

51.025 PRELIMINARY TREATMENT FACILITIES TO BE MAINTAINED BY OWNER.

Where preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

51.026 CONTROL MANHOLES.

When required by the city, the user of the sewage system from any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with necessary meters and other appurtenances, in the building sewer to facilitate observation, sampling and measurement of the wastes. The manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the city. The manhole shall be installed by the user at the user's expense and shall be maintained by the user so as to be safe and accessible at all times.

51.027 MEASUREMENTS, TESTS AND ANALYSES.

(A) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided or upon suitable samples taken at the control manhole. If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards or unacceptable constituents.

(B) The analysis involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pHs are determined from periodic grab samples.

51.028 SPECIAL AGREEMENTS.

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern.

CONNECTIONS

51.040 PERMIT REQUIRED; APPLICATION.

- (A) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining all required permits and paying all applicable fees.
- (B) Any person developing property or seeking to connect to the sewage system shall submit an application on the prescribed form, including all required information. A fee prescribed by resolution of the Council for classes of connection, inspection, construction reimbursement charges, fees in lieu of assessment, or similar required payments shall be made at the time of application. Persons developing or connecting property previously connected to the public treatment works without change in use shall not be subject to the fees provided herein. "Change in use" shall be as defined in § 51.001.

51.041 FEES.

- (A) Fees established for any person developing or connecting to a public sewer shall include:
 - (1) Connection and inspection fee. The direct charge levied by the city for the connection to the sewage treatment works. Fees, classifications, and amounts shall be established by resolution of the City Council.
 - (2) Construction reimbursement. A direct fee established by resolution to reimburse the construction cost of a public sewer as provided in this chapter, including any applicable system development charge as provided in Chapter 34.
 - (3) Fee in lieu of assessment. A fee required for persons connecting or developing adjacent to a public sewer which was constructed at the expense of the utility ratepayers and for which the benefiting property was not assessed at the time of installation, and are not subject to construction reimbursement as provided herein. No fee in lieu of assessment shall be levied in addition to a construction reimbursement fee.
- (B) Fee in lieu of assessment and construction reimbursement paid in accordance with the following:
 - (1) Where developing properties have multiple frontages, the fee shall be charged to the longest available frontage, regardless of possible point of connection. The records of the city shall reflect the charge.
 - (2) Where private contractors have installed facilities at their own cost, the fees shall be paid to the city for payment to the private contractor as established by the terms

of a reimbursement agreement, otherwise the fee shall be paid to the city or deposited in the utility fund.

- (3) The city may require new facilities to be constructed to serve developing properties. Actual cost of construction for the new public sewer will be utilized as an offset to or actual waiving of construction reimbursement or fees in lieu of assessment based upon the actual construction cost of public sewer required. No construction offset for fees may be transferred to any other person or property. Any balance of construction reimbursement or payment in lieu of assessment fees due after allowing for construction offset shall be paid by the person developing or connecting.

51.042 COSTS AND EXPENSES TO BE BORNE BY OWNER.

All costs and expense incident to the installation and connection of the building sewer shall be borne by the person causing the connection. The person causing the connection shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

51.043 SEPARATE BUILDING SEWER FOR EACH BUILDING; OLD BUILDING SEWERS.

- (A) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
- (B) Old building sewers may be used in connection with new buildings only when they are found on examination and test, by the city, to meet all requirements of this chapter.

51.044 SPECIFICATIONS.

- (A) The size, slope, alignment, and materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to other applicable rules and regulations of the city.
- (B) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. Building sewer connections shall be allowed into a manhole, a line fitting specifically designed for building sewers, or with a tapping saddle approved by the city.

51.045 ELEVATION OF SEWER.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building sewer.

51.046 CONNECTION OF SURFACE RUNOFF OR GROUNDWATER.

No person shall make connection of roof downspouts, exterior foundation drains, area way drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

51.047 INSPECTION.

The applicant for the building sewer permit shall notify the city when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the city.

51.048 EXCAVATIONS.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city, and any other permits required by the city.

RATES, CHARGES AND BILLING

51.060 USERS CHARGES SYSTEM.

User charges shall be levied on all users of the public treatment works which shall cover the cost of operation and maintenance, debt service and other administrative costs of treatment works.

51.061 PRETREATMENT CHARGES AND FEES.

The city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program, which may include:

- (A) Fees for wastewater discharge permit applications including the cost of processing such applications;
- (B) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports and certification statements submitted by users;
- (C) Fees for reviewing and responding to accidental discharge procedures and construction;
- (D) Fees for filing appeals;
- (E) Fees to recover administrative and legal costs not included in § 51.061(B) associated with the enforcement activity taken by the control authority to address IU noncompliance; and
- (F) Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the city.

51.061 [RESERVED]

51.062 CLASSIFICATION OF USERS; NONMETERED USERS.

- (A) Classification of users. Certain users shall be grouped into classes of users discharging approximately the same volume of wastewater and shall be levied a flat charge which is calculated from the flow charge by applying the average volume for that class.
- (B) Nonmetered users. Those users who are not in one of the user classes with assigned average flow volumes and whose water consumption or wastewater discharge is not metered shall be assigned an approximate wastewater volume and shall be billed on the flow charge according to this assigned volume.
- (C) Appeal. Should any user believe that the assignment to a particular user class is incorrect or that a portion of the user's metered flow is lawfully not discharged into the sewerage system, that user may apply for review of their user charge as provided in this chapter.
- (D) Reassignment of a user. Should the city determine that a user is incorrectly assigned to a user class, the city shall reassign a more appropriate user class to that user and shall notify that user of the reassignment.

51.063 RECORDS.

Records of all assigned rates and any assigned wastewater volumes to user and user classes shall be kept on file with the city and shall be open for public inspection.

51.064 [RESERVED]

51.065 ESTABLISHMENT OF USER CHARGES.

The classification, methodology and amount of sewer user charges shall be established by resolution of the City Council.

- (A) Except as otherwise provided, sewer user charges shall be based on and included in the water usage rates established by the City Council, including any base rate.
- (B) Commercial independent discharge. As defined in § 51.001, users of this class must operate and maintain independent wastewater disposal facilities which are currently licensed by the state and approved by any other applicable regulatory authority for the disposal of wastewater. During all times when approved and licensed wastewater facilities are operable, the rate for discharge to the public treatment works will be based on the actual metered flow of discharge, or will be based on the calculated discharge of each employee per shift per day, in accordance with the resolution of the City Council.
 - (1) Metered users of this class will provide access to city personnel to read the meter in each billing period.
 - (2) Metered users of this class will provide an annual calibration and certification of the metering device from an individual certified for verification.
 - (3) Nonmetered users of this class shall provide a verified employee count and total hours worked during the billing period. The city will establish the date for the

submittal with each user. Employee information must be expressed in total employees per shift per day.

- (4) In the event that independent discharge facilities are not operating, or for any other reason the total discharge of a user in this class is provided to the public treatment works, user rates will be calculated in accord with the commercial account category, or in the event that the discharge exceeds 25,000 gallons per day, an industrial cost recovery rate will be applied in accord with this chapter.
- (5) Should users of this class not provide access to the waste meter, verification of meter accuracy, or employment information as required, the user shall be billed at the commercial rate.

(C) The sewer user charge for users relying in whole or in part on private water supplies shall be based on water consumption through both public and private water supplies. The base charge shall apply to each water supply meter and each unmetered water supply line.

(D) The City Council may adopt alternate or additional billing methodologies, rates or surcharges based on the unique impacts of a user or class of users on the sewer system, including but not limited to the characteristics of the discharge into the sewer system.

51.066 NEW USERS AND VACANCIES.

The sewer user charge shall begin on the date of connection to the system. Once the sewer user charge has commenced, no credit shall be given to any commercial or single dwelling unit account unless it can be demonstrated that all water sources to that property have been discontinued. If the date upon which the user charge is commenced or altered does not fall on the first day of a billing period, the rates shall be apportionately prorated.

51.067 [RESERVED]

51.068 WATER CONSUMPTION.

For the user classes billed on a consumption basis, all water supplies shall be considered, whether public or private. In the event water meters are not in place consumption will be based on 5,000 gallons of water per month unless otherwise provided by the rate resolution.

51.069 ~~DISPOSAL OF ON-SITE WASTES.~~ [RESERVED]

~~(A) On-site disposal waste. Charges for dumping on-site disposal wastes at the city's sewage treatment plant shall be based on the measured gallonage deposited. These charges shall cover costs of operation and maintenance of the treatment plant and any appropriate local capital costs allocable to the treatment of these wastes and shall be in accord with the resolution of the City Council adopting rates for this class of use.~~

~~(B) Hours. Hours for acceptance and locations for disposal of on-site wastes shall be established by the city. No waste will be accepted for disposal at any other time or location.~~

~~(C) Samples. Prior to depositing, a sample of waste proposed to be deposited shall be taken. If there is no biological activity in the waste, or if any constituent of the waste is identified~~

~~which violates the provisions of this chapter for deposit in public sewers, the waste will be rejected.~~

~~(D) Restrictions. The city may establish maximum volume and strength restrictions on deposited waste. Any restrictions shall be promulgated in writing to the depositors of the waste.~~

~~(E) Violations. Any waste deposited which violates the terms of this chapter shall be removed by the city with all costs of personnel, equipment, and damages assessed to the depositor and may be prosecuted as a violation.~~

51.070 [RESERVED]

51.071 RESPONSIBILITY FOR PAYMENT.

The user of the sewage system shall be responsible for payment of the sewer user charge.

51.072 BILLING PROCEDURES.

- (A) The users of the sewerage system shall be billed on a monthly basis for services after rendered in accordance with the rate schedule. The city may issue a combined bill for sewer, water, and solid waste management services.
- (B) The date of the billing shall be in accordance with the monthly cycle billing.
- (C) Notice of billing, delinquencies, and all other required information shall be deemed to have been given when notices are placed in the United States mail with postage prepaid and addressed as shown in the utility records. Failure to provide address change information will not cause notice to be defective. Notice of termination of sewer service may also be made by hand delivery or posting at the consumer's place of use.
- (D) Sewer user charges shall be due and payable to the city no later than 20 days after the date of billing.

51.073 DELINQUENCIES AND SERVICE SHUTOFF.

- (A) All bills for sewer service shall be rendered monthly at the same time that bills for water services and solid waste services are rendered and may be collected as a combined bill for water, sewage and solid waste services furnished to the consumer.
- (B) All bills for water, sewage and solid waste services are due and payable within 20 days of issuance. All water, sewage, and solid waste bills unpaid 20 days after the date of issuance shall be considered delinquent and an additional charge shall be imposed on the gross amount of the billing.
- (C) All other charges arising under this chapter and not required to be paid in advance shall be due 20 days from the date of issuance of a statement of the amount owed. All such amounts unpaid 20 days after date of issuance shall be considered delinquent and an additional charge imposed.

- (D) The city shall send the initial notice of delinquency to the user. If the account remains delinquent, the city, prior to terminating service, shall provide a second notice of delinquency by first class mail or personal service to the user and to the property owner if the owner has provided to the city a mailing address for notification. It shall be the responsibility of the owner to ensure that the city has a current address. The notice shall state that failure to pay the amount due may result in one or all such services being discontinued on the date specified in the notice which shall not be less than ten days from issuance and that the city may impose a shutoff/reinstatement fee. It shall summarize the right to appeal provided in subsection (H) of this section.
- (E) Unless other arrangements have been made, satisfactory to the city, discontinued services shall not be restored until all charges including but not limited to the delinquency and any shutoff/reinstatement fee have been paid.
- (F) Sewer service, including water provision, may also be shut off if the consumer tampers or in any way interferes with any meter, connections, service pipes, valves or other appurtenances belonging to the city or for any violation by a consumer of the terms of this or any other applicable ordinance of the city or the statutes of the state relating to the sewer system. Notice and opportunity to appeal shall be provided in the same manner as a delinquency.
- (G) Notwithstanding any other provision of this chapter, the city may immediately shut off services, remove or close a sewer connection if there is an immediate threat of substantial harm to public health or safety. Notice shall be provided as reasonably practicable. The consumer or property owner may appeal the shutoff within ten days of notice or shutoff as provided in subsection (H) of this section, which appeal shall be expedited.
- (H) A person notified of a delinquency may appeal the determination, in writing, stating the reasons therefor as provided in Chapter 136. Except in case of an immediate threat of substantial harm to public health or safety, service will not be shut off pending the outcome of the appeal provided the appeal is received by the city prior to the discontinuance. The appeal authority may grant the appeal, deny the appeal or adjust the delinquency, as appropriate, including providing for a payment plan. If the appeal is denied or adjusted and the amount established to be due is not paid within ten days of notice of the decision or as otherwise provided in the decision, service may be discontinued.

51.074 SEWER SERVICE REFUSED TO CUSTOMER WITH OUTSTANDING AMOUNTS OWED.

No user may receive sewer service at any location if the user has outstanding unpaid sewer bills at any other location until all outstanding amounts owed by that user are paid in full.

51.075 APPEALS.

Any person contesting a delinquency, discontinuance of service, shutoff or related matter may appeal the decision in the same manner as provided for water services in § 52.09.

51.076 INDUSTRIAL COST RECOVERY.

- (A) All IUs shall be required to pay that portion of the federal assistance grant under PL 92-500 allocable to the treatment of waste from the users.

- (B) The system for industrial cost recovery shall be implemented and maintained according to the following requirements:
- (C) Each year during the industrial cost recovery period, each IU of the treatment works shall pay its share of the total federal grant amount divided by the recovery period.
- (D) The industrial cost recovery period shall be equal to 30 years or the useful life of the treatment works, whichever is less.
- (E) Payments shall be made by IUs no less often than annually. The first payment by an IU shall be made not later than one year after the user begins use of the treatment works.
 - (1) An IU's share shall be based on all factors which significantly influence the cost of the treatment works, such as strength, volume and flow rate characteristics. As a minimum, an industry's share shall be based on its flow versus treatment works capacity except in unusual cases.
 - (2) An IU's share shall be adjusted when there is a substantial change in the strength, volume or flow rate characteristics of user's wastes, or if there is an expansion or upgrading of the treatment works.
 - (3) An IU's share shall not include any portion of the federal grant amount allocable to unused or unreserved capacity.
 - (4) An IU's share shall include any firm commitment to the city of increased use by the user.
 - (5) An IU's share shall not include an interest component.
- (F) This requirement applies only to those features of wastewater treatment and transportation facilities which have been constructed with federal assistance administered by the U.S. Environmental Protection Agency under PL 92-500.

INDUSTRIAL PRETREATMENT PROGRAM WASTEWATER PROVISIONS

51.090 PURPOSE AND POLICY.

This ordinance sets forth uniform requirements for users of the PTW for the city and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 USC § 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the CFR Part 403). The objectives of this ordinance are:

- (A) To prevent the introduction of pollutants into the PTW that will interfere with its operation;
- (B) To prevent the introduction of pollutants into the PTW that will pass through the PTW, inadequately treated into receiving waters, or otherwise be incompatible with the PTW;
- (C) To protect both the PTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (D) To promote reuse and recycling of industrial wastewater and sludge from the PTW;

- (E) To provide for fees for the equitable distribution of the cost of operation and maintenance and improvement of the PTW; and
(F) To enable the city to comply with its National Pollutant Discharge Elimination System Permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the PTW is subject.

This ordinance shall apply to all users of the PTW. This ordinance authorizes the issuance of industrial wastewater permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

51.091 ADMINISTRATION.

Except as otherwise provided herein, the control authority shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the control authority may be delegated by the control authority to a duly authorized city employee.

51.092 ABBREVIATIONS.

The following abbreviations, when used in this ordinance, shall have the designated meanings:

BOD – Biochemical Oxygen Demand

BMP – Best Management Practice

BMR – Baseline Monitoring Report

CFR – Code of Federal Regulations

CIU – Categorical Industrial User

COD – Chemical Oxygen Demand

EPA – U.S. Environmental Protection Agency

gpd – gallons per day

IU – Industrial User

mg/l – milligrams per liter

NPDES – National Pollutant Discharge Elimination System

NSCIU – Non-Significant Categorical Industrial User

O&M – Operation and Maintenance Manual

OAR – Oregon Administrative Rules

OR-DEQ – Oregon Department of Environmental Quality

PTW – Public Treatment Works

RCRA – Resource Conservation and Recovery

Act SIU – Significant Industrial User

SNC – Significant Noncompliance

TSS – Total Suspended Solids

USC – United States Code

51.093 DEFINITIONS.

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

(A) Act or “the Act.” The federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC § 1251 et seq.

(B) Approval Authority. OR-DEQ.

(C) Authorized or Duly Authorized Representative of the User.

(1) If the user is a corporation:

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

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to ensure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for industrial wastewater permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

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

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

(4) The individuals described in paragraphs 1 through 3, above, may designate a duly authorized representative if the authorization is in writing, the authorization

specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

- (D) Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).
- (E) Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in §§ 51.094(A) and (B) [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- (F) Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with §§ 307(b) and (c) of the Act (33 USC § 1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- (G) Categorical Industrial User. An IU subject to a categorical pretreatment standard or categorical standard.
- (H) City. The City of Hermiston.
- (I) Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- (J) Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.
- (K) Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- (L) Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, the _____ Regional Administrator, or other duly authorized official of said agency.
- (M) Existing Source. Any source of discharge that is not a “New Source.”
- (N) Grab Sample. A sample that is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
- (O) Indirect Discharge or Discharge. The introduction of pollutants into the PTW from any nondomestic source.

(P) Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(Q) Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the PTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the city's NPDES Permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: § 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

(R) Local Limit. Specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

(S) Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(T) Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(U) Monthly Average Limit. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(V) New Source.

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under § 307(c) of the Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

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

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

(c) The production or wastewater-generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is

engaged in the same general type of activity as the existing source, should be considered.

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

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

(a) Begun, or caused to begin, as part of a continuous on-site construction program

1. Any placement, assembly, or installation of facilities or equipment;
or

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

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

(W) Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(X) Pass Through. A discharge which exits the PTW into Waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES Permit, including an increase in the magnitude or duration of a violation.

(Y) Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

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

(AA) Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

- (BB) Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the PTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (CC) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- (DD) Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- (EE) Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 51.094 of this ordinance.
- (FF) Public Treatment Works or PTW. A treatment works, as defined by § 212 of the Act (33 USC § 1292), which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.
- (GG) Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- (HH) Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).
- (II) Significant Industrial User or SIU.

Except as provided in paragraphs (3) of this section, a SIU is:

- (1) An IU subject to categorical pretreatment standards; or
- (2) An IU that:
 - (a) Discharges an average of 25,000 gpd or more of process wastewater to the PTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - (b) Contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the PTW treatment plant; or
 - (c) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the PTW's operation or for violating any pretreatment standard or requirement.
- (3) Upon a finding that a user meeting the criteria in subsection (2) of this part has no reasonable potential for adversely affecting the PTW's operation or for violating any

pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from an IU, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a SIU.

(JJ) Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 51.094 of this ordinance. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the PTW's regulations, local limits, or permit conditions.

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

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

(MM) User or Industrial User. A source of indirect discharge.

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

(OO) Wastewater Treatment Plant or Treatment Plant. That portion of the PTW which is designed to provide treatment of municipal sewage and industrial waste.

GENERAL SEWER USE REQUIREMENTS

51.094 PROHIBITED DISCHARGE STANDARDS

(A) General Prohibitions. No user shall introduce or cause to be introduced into the PTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all Users of the PTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(B) Specific Prohibitions. No user shall introduce or cause to be introduced into the PTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the PTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140° Fahrenheit (60° Celsius) using the test methods specified in 40 CFR 261.21;

(2) The flammable or explosive substances including, but not limited to, gasoline, kerosene, naphtha, fuel oil, benzene, hexane, toluene, xylene, ethers, alcohols, ketones, aldehyde peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides or any other flammable or explosive liquid, solid, or gas.

(3) Wastewater having a pH less than 6.1 or more than 9.0, or otherwise causing corrosive structural damage to the PTW or equipment;

- (4) Solid or viscous substances in amounts which will cause obstruction of the flow in the PTW resulting in interference but in no case solids greater than one-half inch in any dimension;
- (5) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the city. Industrial Users shall generally not be permitted to introduce any garbage, shredded or otherwise, into the PTW unless otherwise allowed via an industrial wastewater permit;
- (+)(6) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement to the degree that any material received in the composite sewage at the sewage treatment works exceeds the limits established by the city for the materials;
- (7) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanide in excess of two mg/l or CN in the wastes as discharged to the public sewer;
- (8) Any waters or wastes containing phenols or other taste- or odor-producing substances in concentrations exceeding limits which may be established by the city as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies having jurisdiction over the discharge or the receiving waters;
- (9) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the PTW;
- (10) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° Fahrenheit (40° Celsius);
- (11) Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C).
- (12) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (13) Pollutants which result in the presence of toxic gases, vapors, or fumes within the PTW in a quantity that may cause acute worker health and safety problems;
- (14) Trucked or hauled pollutants, except at discharge points designated by the control authority in accordance with § 51.102 of this ordinance;

- (15) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (16) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit;
- (17) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
- (18) Storm water, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the control authority;
- (19) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (20) Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solutions, whether neutralized or not.
- (21) Medical wastes, except as specifically authorized by the control authority in an industrial wastewater permit;
- (22) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;
- (23) Detergents, surface-active agents, or other substances which that might cause excessive foaming in the PTW;
- (24) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees F (0 and 65 degrees C).
- (C) No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer unless otherwise permitted via an industrial wastewater permit.
- (D) Storm water and all other unpolluted drainage shall be maintained on site, discharged to the sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the city. Industrial cooling water or unpolluted process waters may be discharged, only on approval of the city and applicable regulatory agencies, to a storm sewer, combined sewer or natural outlet;
- (E) Materials which exert or cause:

- a. Unusual concentrations of inert suspended solids (such as but not limited to fuller's earth, lime slurries and lime residues) or of dissolved solids (such as but not limited to sodium chloride and sodium sulfate).
- b. Excessive discoloration (such as but not limited to dye wastes and vegetable tanning solutions).
- c. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
- d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- e. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to the degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(F) Storm water drainage systems shall be adequately sized, properly placed and maintained in a proper state of repair.

(G) No person shall discharge water in violation of any other provision of law, including §§- 51.092 and 94.05.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharge to the PTW.

51.095 NATIONAL CATEGORICAL.

Users must comply with the categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471

(A) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the control authority shall impose an alternate limit in accordance with 40 CFR 403.6(e).

51.096 STATE PRETREATMENT STANDARDS.

Users must comply with state pretreatment standards codified at OAR Chapter 340, Division

45. 51.097 LOCAL LIMITS.

(A) The control authority is authorized to establish local limits pursuant to 40 CFR 403.5(c).

(B) It is unlawful for an IU to discharge wastes or wastewaters to the city sewer system in excess of limitations established in an industrial wastewater discharge permit or in violation of the prohibited discharges in Section 51.094. The control authority will establish specific discharge limitations under separate rules to meet the objectives of this chapter.

(C) The control authority may develop BMPs, by ordinance or in industrial wastewater permits, to implement local limits and the requirements of § 51.094.

51.098 CITY'S RIGHT OF REVISION.

The city reserves the right to establish, by ordinance or in industrial wastewater permits, more stringent standards or requirements on discharges to the PTW consistent with the purpose of this ordinance.

51.099 DILUTION.

No user shall ever 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 a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The control authority may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

PRETREATMENT OF WASTEWATER

51.099 PRETREATMENT FACILITIES.

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 51.094 of this ordinance within the time limitations specified by EPA, the state, or the control authority, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the control authority for review, and shall be acceptable to the control authority before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this ordinance.

51.100 ADDITIONAL PRETREATMENT MEASURES.

- (A) Whenever deemed necessary, the control authority may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the PTW and determine the user's compliance with the requirements of this ordinance.
- (B) The control authority may require any person discharging into the PTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An industrial wastewater permit may be issued solely for flow equalization.
- (C) Grease, oil, and sand interceptors shall be provided when, in the opinion of the control authority, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the

control authority, shall comply with § 51.154 of the City of Hermiston's Municipal Code, and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired in accordance with § 51.156 by the user at their expense.

- (D) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter

51.101 ACCIDENTAL DISCHARGE/SLUDGE DISCHARGE CONTROL PLANS.

The control authority shall evaluate whether each SIU needs an accidental discharge/sludge discharge control plan or other action to control sludge discharges. The control authority may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control sludge discharges. Alternatively, the control authority may develop such a plan for any user. An accidental discharge/sludge discharge control plan shall address, at a minimum, the following:

- (A) Description of discharge practices, including nonroutine batch discharges;
- (B) Description of stored chemicals;
- (C) Procedures for immediately notifying the control authority of any accidental or sludge discharge, as required by § 51.172122 of this ordinance; and
- (D) Procedures to prevent adverse impact from any accidental or sludge discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

51.102 HAULED WASTEWATER.

- (A) Septic tank waste may be introduced into the PTW only at locations designated by the control authority, and at such times as are established by the control authority. Such waste shall not violate the General Sewer Use Requirements section of this ordinance or any other requirements established by the city. The control authority may require septic tank waste haulers to obtain industrial wastewater permits.
- (B) Charges for dumping hauled or on-site disposal wastes at the city's sewage treatment plant shall be based on the measured gallonage deposited. These charges shall cover costs of operation and maintenance of the treatment plant and any appropriate local capital costs allocable to the treatment of these wastes and shall be in accord with the resolution of the City Council adopting rates for this class of use.
- (C) Hours for acceptance and locations for disposal of on-site wastes shall be established by the city. No waste will be accepted for disposal at any other time or location.
- (D) The control authority may require haulers of industrial waste to obtain industrial wastewater permits. The control authority may require generators of hauled industrial waste to obtain industrial wastewater permits. The control authority also may prohibit the

disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.

(E) Industrial waste haulers may discharge loads only at locations designated by the control authority. No load may be discharged without prior consent of the control authority. The control authority may collect samples of each hauled load to ensure compliance with applicable standards. The control authority may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(F) Prior to depositing, a sample of waste proposed to be deposited shall be taken. If there is no biological activity in the waste, or if any constituent of the waste is identified which violates the provisions of this chapter for deposit in public sewers, the waste will be rejected.

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

(H) Any waste deposited which violates the terms of this chapter shall be removed by the city with all costs of personnel, equipment, and damages assessed to the depositor and may be prosecuted as a violation.

INDUSTRIAL WASTEWATER PERMITS

51.103 WASTEWATER ANALYSIS.

When requested by the control authority, a user must submit information on the nature and characteristics of its wastewater within 60 days of the request. The control authority is authorized to prepare a form for this purpose and may periodically require users to update this information.

51.104 INDUSTRIAL WASTEWATER PERMIT REQUIREMENT.

(A) No SIU shall discharge wastewater into the PTW without first obtaining an industrial wastewater permit from the control authority, except that a SIU that has filed a timely application pursuant to § 51.105 of this ordinance may continue to discharge for the time period specified therein.

(B) The control authority may require other users to obtain industrial wastewater permits as necessary to carry out the purposes of this ordinance.

(C) Any violation of the terms and conditions of an industrial wastewater permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in this ordinance. Obtaining an industrial wastewater permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

51.105 INDUSTRIAL WASTEWATER PERMITTING: EXISTING CONNECTIONS.

Any user required to obtain an industrial wastewater permit who was discharging wastewater into the PTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within 60 days after said date, apply to the control authority for an industrial wastewater permit in accordance with § 51.109 of this ordinance, and shall not cause or allow discharges to the PTW to continue after 150 days of the effective date of this ordinance except in accordance with an industrial wastewater permit issued by the control authority.

51.106 INDUSTRIAL WASTEWATER PERMITTING: NEW CONNECTIONS.

Any User required to obtain an industrial wastewater permit who proposes to begin or recommence discharging into the PTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this industrial wastewater permit, in accordance with § 51.109 of this ordinance, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

51.107 INDUSTRIAL WASTEWATER PERMIT APPLICATION CONTENTS.

(A) All users required to obtain an industrial wastewater permit must submit a permit application. The control authority may require users to submit all or some of the following information as part of a permit application:

(1) Identifying Information

- (a) The name and address of the facility, including the name of the operator and owner.
- (b) Contact information, description of activities, facilities, and plant production processes on the premises;

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations.

- (a) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the PTW from the regulated processes.
- (b) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the PTW;
- (c) Number and type of employees, hours of operation, and proposed or actual hours of operation;
- (d) Type and amount of raw materials processed (average and maximum per day);

(e) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(4) Time and duration of discharges;

(5) The location for monitoring all wastes covered by the permit;

(6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the PTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in § 51.095(A) (40 CFR 403.6(e)).

(7) Measurement of Pollutants.

(a) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the control authority, of regulated pollutants in the discharge from each regulated process.

(c) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(d) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 51.126 of this ordinance. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard.

(e) Sampling must be performed in accordance with procedures set out in § 51.127 of this ordinance.

(8) Any other information as may be deemed necessary by the control authority to evaluate the permit application.

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

51.108 APPLICATION SIGNATORIES AND CERTIFICATIONS.

(A) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in § 51.130(A).

(B) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization

satisfying the requirements of this section must be submitted to the control authority prior to or together with any reports to be signed by an authorized representative.

51.109 INDUSTRIAL WASTEWATER PERMIT DECISIONS.

The control authority will evaluate the data furnished by the user and may require additional information. Within 30 days of receipt of a complete permit application, the control authority will determine whether to issue an industrial wastewater permit. The control authority may deny any application for an industrial wastewater permit.

INDIVIDUAL WASTEWATER DISCHARGE

51.110 INDUSTRIAL WASTEWATER PERMIT DURATION.

An industrial wastewater permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. An industrial wastewater permit may be issued for a period less than five years, at the discretion of the control authority. Each industrial wastewater permit will indicate a specific date upon which it will expire.

51.111 INDUSTRIAL WASTEWATER PERMIT CONTENTS.

An industrial wastewater permit shall include such conditions as are deemed reasonably necessary by the control authority to prevent pass through or interference, protect the quality of the waterbody receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the PTW.

(A) Industrial wastewater permits must contain:

- (1) A statement that indicates the wastewater discharge permit issuance date, expiration date, and effective date;
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with § 51.114 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Effluent limits, including BMPs, based on applicable pretreatment standards;
- (4) Self monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants (or BMP) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.
- (5) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with §§ 51.120(B).
- (6) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(7) Requirements to control slug discharge, if determined by the control authority to be necessary.

(B) Industrial wastewater permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the PTW;

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

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(7) A statement that compliance with the industrial wastewater permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the industrial wastewater permit; and

(8) Other conditions as deemed appropriate by the control authority to ensure compliance with this ordinance, and state and federal laws, rules, and regulations.

51.112 PERMIT ISSUANCE PROCESS.

(A) Permit Appeals. The control authority shall provide public notice of the issuance of an industrial wastewater permit. Any person, including the user, may petition the control authority to reconsider the terms of an industrial wastewater permit within 30 days of notice of its issuance.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the industrial wastewater permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the industrial wastewater permit.

(3) The effectiveness of the industrial wastewater permit shall not be stayed pending the appeal.

(4) If the control authority fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an industrial wastewater permit, not to issue an industrial wastewater permit, or not to modify an industrial wastewater permit shall be considered final administrative actions for purposes of judicial review.

(5) Aggrieved parties seeking judicial review of the final administrative industrial wastewater permit decision must do so by filing a complaint with the Umatilla County Circuit Court.

51.113 PERMIT MODIFICATION

(A) The control authority may modify an industrial wastewater permit for good cause, including, but not limited to, the following reasons:

- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the industrial wastewater permit issuance;
- (3) A change in the PTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the city's PTW, city personnel, or the receiving waters;
- (5) Violation of any terms or conditions of the industrial wastewater permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (8) To correct typographical or other errors in the industrial wastewater permit; or
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with § 51.114.

51.114 INDUSTRIAL WASTEWATER PERMIT TRANSFER.

Industrial wastewater permits may be transferred to a new owner or operator only if the permittee gives at least 60 days advance notice to the control authority and the control authority approves the individual wastewater discharge permit transfer. The notice to the control authority must include a written certification by the new owner or operator which:

- (A) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(B) Identifies the specific date on which the transfer is to occur; and

(C) Acknowledges full responsibility for complying with the existing industrial wastewater permit.

Failure to provide advance notice of a transfer renders the industrial wastewater permit void as of the date of facility transfer.

51.115 INDUSTRIAL WASTEWATER PERMIT REVOCATION.

The control authority may revoke an industrial wastewater permit for good cause, including, but not limited to, the following reasons:

(A) Failure to notify the control authority of significant changes to the wastewater prior to the changed discharge;

(B) Failure to provide prior notification to the control authority of changed conditions pursuant to § 51.121 of this ordinance;

(C) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(D) Falsifying self-monitoring reports and certification statements;

(E) Tampering with monitoring equipment;

(F) Refusing to allow the control authority timely access to the facility premises and records;

(G) Failure to meet effluent limitations;

(H) Failure to pay fines;

(I) Failure to pay sewer charges;

(J) Failure to meet compliance schedules;

(K) Failure to complete a wastewater survey or the wastewater discharge permit application;

(L) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(M) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

Industrial wastewater permits shall be voidable upon cessation of operations or transfer of business ownership. All industrial wastewater permits issued to a user are void upon the issuance of a new industrial wastewater permit to that user.

51.116 INDUSTRIAL WASTEWATER PERMIT REISSUANCE.

A user with an expiring industrial wastewater permit shall apply for industrial wastewater permit reissuance by submitting a complete permit application, in accordance with § 51.111 of this

ordinance, a minimum of 90 days prior to the expiration of the user's existing industrial wastewater permit.

51.117 REGULATION OF WASTE RECEIVED FROM OTHER JURISDICTIONS.

- (A) If another municipality, or user located within another municipality, contributes wastewater to the PTW, the control authority shall enter into an intermunicipal agreement with the contributing municipality.
- (B) Prior to entering into an agreement required by paragraph A, above, the control authority shall request the following information from the contributing municipality:

 - (1) A description of the quality and volume of wastewater discharged to the PTW by the contributing municipality;
 - (2) An inventory of all users located within the contributing municipality that are discharging to the PTW; and
 - (3) Such other information as the control authority may deem necessary.
- (C) An intermunicipal agreement, as required by paragraph A, above, shall contain the following conditions:

 - (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits, including required BMRs, which are at least as stringent as those set out in § 51.094 and 51.097 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance or local limits;
 - (2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
 - (3) A provision specifying which pretreatment implementation activities, including industrial wastewater permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the control authority; and which of these activities will be conducted jointly by the contributing municipality and the control authority;
 - (4) A requirement for the contributing municipality to provide the control authority with access to all information that the contributing municipality obtains as part of its pretreatment activities;
 - (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the PTW;
 - (6) Requirements for monitoring the contributing municipality's discharge;
 - (7) A provision ensuring the control authority access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the control authority; and

- (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

REPORTING REQUIREMENTS

51.118 BASELINE MONITORING REPORTS.

(A) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing CIUs currently discharging to or scheduled to discharge to the PTW shall submit to the control authority a report which contains the information listed in paragraph (B), below. At least 90 days prior to commencement of their discharge, new sources, and sources that become CIUs subsequent to the promulgation of an applicable categorical standard, shall submit to the control authority a report which contains the information listed in paragraph (B), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(B) Users described above shall submit the information set forth below.

(1) All information required in § 51.107(A)(1)(a), § 51.107(A)(2), § 51.107(A)(3)(a), and § 51.107(A)(6).

(2) Measurement of pollutants.

(a) The user shall provide the information required in § 51.107(A)(7)(a) through (d).

(b) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

(c) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula in 40 CFR 403.6(e) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the control authority;

(d) Sampling and analysis shall be performed in accordance with § 51.126;

(e) The control authority may allow the submission of a baseline report which utilizes only historical data so long as the data provide information sufficient to determine the need for industrial pretreatment measures;

(f) The BMR shall indicate the time, date, and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the PTW.

- (3) Compliance Certification. A statement, reviewed by the user's authorized representative as defined in § 51.093(C) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.
- (4) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 51.119 of this ordinance.
- (5) Signature and Report Certification. All BMRs must be certified in accordance with § 51.130(A) of this ordinance and signed by an authorized representative as defined in § 51.093(C).

51.119 COMPLIANCE SCHEDULE PROGRESS REPORTS.

The following conditions shall apply to the compliance schedule required by § 51.118(B)(4) of this ordinance:

- (A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (B) No increment referred to above shall exceed nine months;
- (C) The user shall submit a progress report to the control authority no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

In no event shall more than nine months elapse between such progress reports to the control authority.

51.120 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the PTW, any user subject to such pretreatment standards and requirements shall submit to the control authority a report containing the information described in §§ 51.107A(6) and (7) and 6.1(B)(2) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in § 51.095, this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical

pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 51.130(A) of this ordinance. All sampling will be done in conformance with § 51.127.

(A) The city may reduce the requirement for periodic compliance reports to a requirement to report no less frequently than once a year, unless required more frequently in the pretreatment standard or by the state, where the IU's total categorical wastewater flow does not exceed any of the following:

(1) 5,000 gallons per day, as measured by a continuous effluent flow monitoring device, unless the IU discharges in batches,

(2) 82.76 lbs/day (pounds per day) of BOD; and

(3) Specific discharge limitations as required in an industrial wastewater discharge permit.

on Reduced reporting is not available to IUs that have in the last two years been in significant noncompliance, as defined in the Publication of Users in Significant Noncompliance section of this ordinance. In addition, reduced reporting is not available to an IU with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the control authority, decreasing the reporting requirement for this IU would result in data that are not representative of conditions occurring during the reporting period.

(B) All periodic compliance reports must be signed and certified in accordance with § 51.130(A) of this ordinance.

(C) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(D) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the control authority, using the procedures prescribed in § 51.127 of this ordinance, the results of this monitoring shall be included in the report.

51.121 REPORTS OF CHANGED CONDITIONS.

Each user must notify the control authority of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 90 days before the change.

(A) The control authority may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 51.107 of this ordinance.

(B) The control authority may issue an industrial wastewater permit under § 51.116 of this ordinance or modify an existing wastewater discharge permit under § 51.113 of this ordinance in response to changed conditions or anticipated changed conditions.

51.122 REPORTS AND POTENTIAL PROBLEMS.

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the PTW, the user shall immediately telephone and notify the control authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (A), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(C) SIUs are required to notify the control authority immediately of any changes at its facility affecting the potential for a slug discharge.

51.123 REPORTS FROM UNPERMITTED USERS.

All users not required to obtain an industrial wastewater permit shall provide appropriate reports to the control authority as the control authority may require.

51.124 NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING.

If sampling performed by a user indicates a violation, the user must notify the control authority within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation. Resampling by the IU is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the IU.

51.125 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

(A) Any user who commences the discharge of hazardous waste shall notify the PTW, the EPA Regional Waste Management Division director, and state hazardous waste authorities, in writing, of any discharge into the PTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the PTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge

commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 51.121 of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 51.118 and 51.120 of this ordinance.

- (B) Dischargers are exempt from the requirements of paragraph (A), above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (C) In the case of any new regulations under § 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the control authority, the EPA Regional Waste Management Waste Division director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- (D) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable federal or state law.

51.126 ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the control authority or other parties approved by EPA.

51.127 SAMPLE COLLECTION.

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

- (A) Except as indicated in §§ (B) and (C) below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the control authority. Where time-

proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

(B) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(C) For sampling required in support of baseline monitoring and 90-day compliance reports required in 40 CFR 403.12(b) and (d), a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the control authority may authorize a lower minimum. For the reports required by paragraphs 40 CFR 403.12(e) and 403.12(h)), the IU is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

51.128 DATE OF RECEIPT OF REPORTS.

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

51.129 RECORDKEEPING.

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with BMPs established under § 51.097(C). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the control authority.

51.130 CERTIFICATION STATEMENTS.

(A) Certification of Permit Applications, User Reports and Initial Monitoring Waiver - The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 51.108; Users submitting BMRs under § 51.118(B)(5); Users submitting reports on compliance with the categorical pretreatment

standard deadlines under § 51.120. The following certification statement must be signed by an authorized representative as defined in § 51.093(C):

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

COMPLIANCE MONITORING

51.131 RIGHT OF ENTRY: INSPECTION AND SAMPLING.

The control authority shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any industrial wastewater permit or order issued hereunder. Users shall allow the control authority ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (A) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the control authority shall be permitted to enter without delay for the purposes of performing specific responsibilities.
- (B) The control authority shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- (C) The control authority may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense.
- (D) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the control authority and shall not be replaced. The costs of clearing such access shall be born by the user.
- (E) Unreasonable delays in allowing the control authority access to the user's premises shall be a violation of this ordinance.

51.132 SEARCH WARRANTS.

If the control authority has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety, and welfare of the

community, the control authority may seek issuance of a search warrant from a court of competent jurisdiction.

CONFIDENTIAL INFORMATION

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

PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The control authority shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the PTW, a list of the users which, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all SIU (or any other IU that violates paragraphs (C), (D) or (H) of this section) and shall mean:

- (A) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in the General Sewer Use Requirements section;
- (B) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric Pretreatment standard or requirement including instantaneous limits, as defined by the General Sewer Use Requirements section multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (C) Any other violation of a pretreatment standard or requirement as defined by the General Sewer Use Requirements section (daily maximum, long-term average, instantaneous limit, or narrative standard) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of PTW personnel or the general public;
- (D) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the control authority's exercise of its emergency authority to halt or prevent such a discharge;

- (E) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in an industrial wastewater permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (F) Failure to provide within 45 days after the due date, any required reports, including BMRs, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (G) Failure to accurately report noncompliance; or
- (H) Any other violation(s), which may include a violation of BMPs, which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

ADMINISTRATIVE ENFORCEMENT REMEDIES

51.133 NOTIFICATION OF VIOLATION.

When the control authority finds that a user has violated, or continues to violate, any provision of this ordinance, an industrial wastewater permit, or order issued hereunder, or any other pretreatment standard or requirement, the control authority may serve upon that user a written notice of violation. Within ten days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the control authority. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the control authority to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

51.134 CONSENT ORDERS.

The control authority may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §§ 51.136 and 51.1377 of this ordinance and shall be judicially enforceable.

51.135 SHOW CAUSE HEARING.

The control authority may order a user which has violated, or continues to violate, any provision of this ordinance, an industrial wastewater permit, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the control authority and show cause why the 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, the reasons for such action, and a request that the user show cause why the 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 days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in § 51.093(C) and required by § 51.108(A). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

51.136 COMPLIANCE ORDERS.

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

51.137 CEASE AND DESIST ORDERS.

When the control authority finds that a user has violated, or continues to violate, any provision of this ordinance, an industrial wastewater permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the control authority may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (A) Immediately comply with all requirements; and
- (B) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

51.138 ADMINISTRATIVE FINES.

- (A) When the control authority finds that a user has violated, or continues to violate, any provision of this ordinance, an industrial wastewater permit, or order issued hereunder, or any other pretreatment standard or requirement, the control authority may fine such user in an amount not to exceed \$10,000. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- (B) Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed an additional penalty of 1.5 percent of the unpaid balance, and interest shall accrue thereafter at a rate of 1 percent per month. A lien against the user's property shall be sought for unpaid charges, fines, and penalties.
- (C) Users desiring to dispute such fines must file a written request for the control authority to reconsider the fine along with full payment of the fine amount within 15 days of being notified of the fine. Where a request has merit, the control authority may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The control authority may add the

costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

- (D) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

51.139 EMERGENCY SUSPENSIONS.

The control authority may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The control authority may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the PTW, or which presents, or may present, an endangerment to the environment.

- (A) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the control authority may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the PTW, its receiving stream, or endangerment to any individuals. The control authority may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the control authority that the period of endangerment has passed, unless the termination proceedings in § 51.140 of this ordinance are initiated against the User.
- (B) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the control authority prior to the date of any show cause or termination hearing under §§51.135 or 51.140 of this ordinance.

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

51.140 TERMINATION OF DISCHARGE.

In addition to the provisions in § 51.115 of this ordinance, any user who violates the following conditions is subject to discharge termination:

- (A) Violation of industrial wastewater permit conditions;
- (B) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (C) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (D) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- (E) Violation of the pretreatment standards in the General Sewer Use Requirements section of this ordinance.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under § 51.135 of this ordinance why the proposed action should not be taken. Exercise of this option by the Control Authority shall not be a bar to, or a prerequisite for, taking any other action against the User.

JUDICIAL ENFORCEMENT REMEDIES

51.141 INJUNCTIVE RELIEF.

When the control authority finds that a user has violated, or continues to violate, any provision of this ordinance, an industrial wastewater permit, or any other pretreatment standard or requirement, the control authority may petition the Umatilla County Circuit Court through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the industrial wastewater permit, order, or other requirement imposed by this ordinance on activities of the user. The control authority may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

51.142 CIVIL PENALITIES

- (A) A user who has violated, or continues to violate, any provision of this ordinance, an industrial wastewater permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of \$2,500 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (B) The control authority may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.
- (C) In determining the amount of civil 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 of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- (D) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

51.143 CRIMINAL PROSECUTION.

- (A) A user who willfully or negligently violates any provision of this ordinance, an industrial wastewater permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$6,250 per violation, per day, or imprisonment for not more than 364 days, or both.
- (B) A user who willfully or negligently introduces any substance into the PTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$6,250, or be subject to imprisonment for not more than

364 days, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(C) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, industrial wastewater permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$6,250 per violation, per day, or imprisonment for not more than 364 days, or both.

(D) In the event of a second conviction, a User shall be punished by a fine of not more than \$6,250 per violation, per day, or imprisonment for not more than 364 days, or both.

51.144 REMEDIES NONEXCLUSIVE.

The remedies provided for in this ordinance are not exclusive. The control authority may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the control authority may take other action against any user when the circumstances warrant. Further, the control authority is empowered to take more than one enforcement action against any noncompliant user.

AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

51.145 UPSET.

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

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

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

(1) An upset occurred and the user can identify the cause(s) of the upset;

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

(3) The user has submitted the following information to the control authority within 24 hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days:

(a) A description of the indirect discharge and cause of noncompliance;

- (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
- (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

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

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

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

characteristics of its wastewater within **51.146 PROHIBITED DISCHARGE STANDARDS.**

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 51.094(A) of this ordinance or the specific prohibitions in § 51.094 of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (A) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (B) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES Permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

51.147 BYPASS

(A) For the purposes of this section,

- (1) Bypass means the intentional diversion of waste streams from any portion of a user's treatment facility.
- (2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(B) A User may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.

(C) Bypass Notifications

- (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the control authority, at least ten days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the control authority of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The control authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(D) Bypass

- (1) Bypass is prohibited, and the control authority may take an enforcement action against a user for a bypass, unless
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The user submitted notices as required under paragraph (C) of this section.
- (2) The control authority may approve an anticipated bypass, after considering its adverse effects, if the control authority determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

MISCELLANEOUS PROVISIONS

51.148 [RESERVED].

§. 51.149 SEVERABILITY.

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

EFFECTIVE DATE

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

51.090 OBJECTIVES.

~~(A) The objectives of this subchapter are:~~

- ~~(1) To prevent the introduction of pollutants into the city sanitary sewerage systems which will interfere with the operation of the system;~~
- ~~(2) To prevent the introduction of pollutants into the city sanitary sewerage system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise will be incompatible with the system;~~
- ~~(3) To ensure that the quality of the city's wastewater treatment plant sludge is maintained at level which allows its beneficial reuse;~~
- ~~(4) To protect the city and city personnel who may come into contact with sewage, biosolids and effluent in the course of their employment as well as protecting the general public;~~
- ~~(5) To preserve the hydraulic capacity of the city's wastewater system;~~
- ~~(6) To provide for equitable distribution of the cost of operation, maintenance and improvement of the city's wastewater system; and~~
- ~~(7) To ensure the city is able to comply with its NPDES permits conditions, biosolids use and disposal requirements and any federal or state laws which the city's wastewater system is subject to.~~

~~(B) This subchapter provides for the regulation of discharges to the city wastewater system through the issuance of permits to certain industrial users, through establishment of general requirements for other users, authorizes monitoring and enforcement activities, establishes administrative review procedures and requires user reporting.~~

~~(C) This subchapter shall apply to all activities within the boundaries of the city, and to activities and persons outside the city who cause or permit a discharge, direct or indirect, to the city's sanitary sewerage systems.~~

51.091 ABBREVIATIONS AND DEFINITIONS.

~~(A) Abbreviations. The following is a list of abbreviations that may appear in the document and be relative to the USEPA National Pretreatment Program:~~

~~GFR ——— Code of Federal Regulations~~

~~LC50 ——— Lethal concentration of 50% of the test organisms~~

~~L~~ — ~~Liter~~

~~MGD~~ — ~~Million gallons per day~~

~~mg/l~~ — ~~Milligrams per liter~~

~~RCRA~~ — ~~Resource Conservation and Recovery Act~~

~~SIC~~ — ~~Standard industrial classification number issued by the U.S. Office of Management and Budget~~

~~SWDA~~ — ~~Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)~~

~~TSS~~ ~~Total suspended solids~~

~~TTO~~ — ~~Total toxic organic~~

~~USC~~ — ~~United States Code~~

~~(B) Definitions. In addition to the definitions set forth in § 51.001, the following definitions shall apply to §§ 51.090 to 51.097 unless the context clearly indicates or requires a different meaning. If this section expressly provides a different definition than § 51.001 or the ordinances or resolutions of the city, this section shall prevail. Certain terms are listed with reference to a specific statute or rule, which definitions are incorporated by reference:~~

~~ACT or THE ACT. The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) amended (aka "The Clean Water Act").~~

~~AFFIRMATIVE DEFENSE. The meaning and scope of 40 CFR 403.5(a)(2).~~

~~APPLICABLE PRETREATMENT STANDARDS. For any specified pollutant, city prohibitive discharge standards, specific limitations on discharge, state pretreatment standards or categorical pretreatment standards, whichever standard is more stringent.~~

~~APPROVAL AUTHORITY. Oregon Department of Environmental Quality (DEQ).~~

~~AS AMENDED. The latest version of a statute, rule, or ordinance in effect on the date this subchapter is adopted. Citation of any statute or rule shall be deemed to be to the amended version.~~

~~AS APPROVED BY THE CITY. The written approval by an authorized employee of the city, according to the provisions of this subchapter and other applicable standards and based upon a written request by a user or permittee.~~

~~AUTHORIZED REPRESENTATIVE OF A USER. If the industrial user is a corporation, AUTHORIZED REPRESENTATIVE shall mean:~~

~~(1) The president, secretary, or a vice president of the corporation in charge of principal business function or any other person who performs similar policy or decision-making functions for the corporation; or~~

~~(2)–The manager of one or more manufacturing, production, or operation facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures:~~

~~(a)–If the industrial user is a partnership, association or sole proprietorship, AUTHORIZED REPRESENTATIVE shall mean a general partner or the proprietor.~~

~~(b)–If the individual user is representing federal, state or local governments, or an agent thereof, an AUTHORIZED REPRESENTATIVE shall mean a director or highest official, appointed or designated to oversee the operation and performance of the activities of the government facility.~~

~~(c)–The individuals described in the subsections above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for the environmental matters for the company, and the authorization is submitted to the city.~~

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees C, expressed in terms of weight and concentration (milligrams per liter or mg/l).

BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system which received the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewers, beginning five feet (one and one-half meters) outside the inner face of the building walls.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

BYPASS. The intentional diversion of one or more waste streams or processes from any portion of an industrial user's treatment facility.

CATEGORICAL PRETREATMENT STANDARDS or CATEGORICAL STANDARDS. Any regulations containing pollutant discharge limits promulgated by the USEPA in accordance with Sections 307(b) and (c) of 33 U.S.C. 1317 which apply to a specific category of industrial users and which appear in 40 CFR Chapter 1, Subchapter N, incorporated herein by reference.

CHANGE IN USE. Changes defined in development shall include conversion from residential to any other use including multifamily uses and shall include an increase to change in the sewage strength, pH, character, or potential discharge of hazardous substances.

GLARIFIER. An interceptor for oil and grease with sedimentation provision.

COLLECTION SYSTEM. The system of public sewers to be operated by the city and designed for the collection of sanitary sewage.

COLOR. The optical density at the visual wavelength of maximum absorption relative to distilled water. One hundred percent transmittance is equivalent to zero optical density.

COMMERCIAL. All buildings or structures which are not defined for the purposes of these sections as residential or industrial in keeping with the city's zoning and building code provisions.

COMMERCIAL USER. Any premises used for commercial business purposes that are not an industry as defined in this subchapter.

COMPOSITE SAMPLE. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on either an increment of flow or time.

CONTROL AUTHORITY. The City of Hermiston, Oregon, or city.

COOLING WATER. The water discharged from any use to which the only pollutant added is heat, such as air conditioning, heat exchangers, noncontact cooling water or refrigeration.

CUSTOMER. Any individual, firm, company, association, society, corporation, group or owner, who receives utility services from the city such as water and sewer.

DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ). Where appropriate, the term may be used as a designation for the Director of the Department or other duly authorized official of the Department.

DEVELOPMENT. The conversion or change in character of occupancy or use of a building which would place the structure in a different building group as defined in the Uniform Building Code; the erection of a new structure; the demolishing of an existing building for the conversion of property to a differing use; the creation of gasoline pumps, drive-up windows, traffic islands or similar alterations which channelize, alter or increase the traffic volume or pattern on adjacent roadways. DEVELOPMENT, for purposes of this subchapter, shall not mean interior remodeling, repairs or maintenance of improvements to any existing structure that does not increase the volume of the structure. Specifically exempted under the subchapter are building facades, roof or exterior wall repair or replacement, heating, ventilating or electrical alterations or activities similar in character.

DEVELOPMENT SITE. An area consisting of a parcel or tract of land specifically identified by a person as the land to be altered or developed. All required areas to meet parking standards and similar requirements for a particular development shall be included in the term; however, the total property ownership of the proponent will not be considered on the site, if is not necessary to the development.

DISCHARGE. The DISCHARGE or the introduction of pollutants into the municipal wastewater system from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

DOMESTIC OR SANITARY WASTE. The liquid and waterborne wastes derived from the ordinary living processes, free from industrial wastes and of the character as to permit satisfactory disposal, without special treatment, into the city wastewater system or by means of a private sewage disposal system.

DWELLING UNITS. Any housing unit with sanitary and kitchen facilities designed to accommodate one or more residents, multiple housing units, mobile homes and trailer spaces, but excluding commercial or transient housing units such as hotel and motel units and retirement homes with ten or more units under one roof, containing therein a dining room facility regularly open a minimum of six days per week and designed for the use of the residents and their guests. Independent laundry facilities serving multifamily, mobile homes and trailer units shall be considered a dwelling unit.

~~ENVIRONMENTAL PROTECTION AGENCY (USEPA or EPA). The U.S. Environmental Protection Agency. Where appropriate the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of the agency.~~

~~EXISTING SOURCE. Any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards under Sections 307(b) and (c) of 33 U.S.C. 1317 of the Act which will be applicable to the source if the standard is thereafter promulgated in accordance with Section 307 of the Act.~~

~~GARBAGE. All refuse and solid wastes, including ashes, rubbish in cans, debris generally; dead animals, street cleanings and industrial wastes and things ordinarily and customarily dumped; solid wastes from the domestic and commercial preparation, cooking, and dispensing of food; and from the handling, storage and sale of produce, but not including sewage and body waste.~~

~~GRAB SAMPLE. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream over a period of time not to exceed 15 minutes.~~

~~GREASE. Animal or vegetable-derived oil or grease.~~

~~INDIRECT DISCHARGE OR DISCHARGES. The meaning of 40 CFR 403.3(g).~~

~~INDUSTRIAL USER or USER. Any person which is a source of indirect discharge which also has the same meaning as defined in 40 CFR 403.3(j) or a significant industrial user pursuant to 40 CFR 403.3(v) to the extent applicable and shall include breweries or microbreweries.~~

~~INDUSTRIAL WASTEWATER. Any nondomestic wastewater originating from a nonresidential source.~~

~~INTERCEPTOR. A device designed and installed so as to adjust, separate and retain deleterious, hazardous or undesirable matter from sewage and to permit normal sewage liquid wastes to discharge from the user's premises into the public sewer system.~~

~~INTERFERENCE. A discharge which, alone or in conjunction with a discharge or discharge from other sources, both:~~

- ~~(1) Inhibits or disrupts the municipal wastewater system, its treatment processes operations, or its solids handling processes, use or disposal; and~~
- ~~(2) Therefore is a cause of a violation of any requirements of the NPDES permit (including an increase in magnitude or duration of a violation) or of the prevention of biosolids use or disposal in compliance with the following statutory provisions and regulations of a permit issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II), the Resource Conservation and Recovery Act (RCRA) and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act, as defined in 40 CFR 403.3(i).~~

~~LOCAL LIMITS/SPECIFIC POLLUTANT LIMITATIONS. Enforceable local requirements developed by POTWs to address federal standards as well as state and local regulations.~~

~~MEDICAL WASTES. Isolation wastes, infectious agents, human blood and blood byproduct pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.~~

~~NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES). Permit program of USEPA.~~

~~NATIONAL PRETREATMENT STANDARD, PRETREATMENT STANDARD, or STANDARD. The meaning of 40 CFR 403.30(j).~~

~~NATIONAL PROHIBITIVE STANDARD or PROHIBITIVE DISCHARGE STANDARD. Any regulation developed under the authority of Sections 307(b) and (c) of the Act, 33 USC 1317, 40 CFR 403.5, DEQ or by the city which prohibits the discharge of certain types or characteristics of wastewater. These prohibitions can be general or specific.~~

~~NEW SOURCE:~~

~~(1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to the source, if the standards are thereafter promulgated in accordance with this section; provided, that:~~

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

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

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

~~(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of the divisions above but otherwise alters, replaces or adds to existing process or production equipment.~~

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

~~(a) Begun, or caused to begin, as part of a continuous on-site construction program:~~

~~1. Any placement, assembly or installation of facilities or equipment;
or~~

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

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

NONDOMESTIC POLLUTANTS (INDUSTRIAL). Any substances other than human waste and household gray water (shower, dishwashing operations, etc.):

OPERATION AND MAINTENANCE (O&M). All activities, goods and services which are necessary to maintain the proper capacity and performance of the treatment works for which works were designed and constructed. OPERATION AND MAINTENANCE shall include replacement as defined hereinafter.

OTHER WASTES. Includes wastes other than human waste, but is not limited to ashes, cinders, industrial sludges, sand, mud, straw, insoluble shavings, metal, glass, rag feathers, tar, creosote, waste antifreeze, plastics, wood, animal paunch contents, offal, blood, bones, meat trimmings and wastes, fish or fowl heads, entrails, trimmings and wastes, lard, tallow, baking dough, chemicals, paint residues, cannery waste bulk solids, hair and fleshing or plastic or paper dishes, cups or food or beverage containers, whether whole or ground.

PASS THROUGH. The occurrence of an indirect discharge which exits the POTW into water of the United States in quantities or concentrations which, alone or in conjunction with discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation):

pH. The logarithm (base ten) of the reciprocal of the concentration of the hydrogen ion expressed in grams per liter of solution, indicating the acidity or alkalinity of the solution.

POLLUTANT. Any substance discharged into the system that, if discharged directly, would alter the quality of the water of the state to a degree which unreasonably affects the water for beneficial use.

PRETREATMENT or TREATMENT. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants' properties in wastewater prior to or in lieu of introducing the pollutants into the municipal wastewater system. The reduction or alteration may be obtained by physical, chemical or biological processes, by process changes or by other means.

PRETREATMENT REQUIREMENT. Any substantive or procedural requirements related to pretreatment, other than national pretreatment standards, imposed on an industrial user.

PROHIBITED DISCHARGE STANDARD. Absolute prohibitions against the discharge of certain types or characteristics of wastewater as established by EPA, DEQ and/or the Director.

~~PROPERLY SHREDDED GARBAGE.~~ The wastes from the preparation, cooking and dispensing of foods that have been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than a half-inch (1.27 centimeters) in any dimension.

~~PUBLIC SEWER.~~ A sewer, either sanitary or storm, in which all owners of abutting property have equal rights, and which is controlled by a public authority.

~~PUBLICLY OWNED TREATMENT WORK (POTW).~~ A "treatment works" as defined in USC 33 Chapter 36, Section 1292, which is owned by the state or municipality. The definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.

~~RECEIVING STREAM or WATER OF THE STATE.~~ 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.

~~REPLACEMENT.~~ Acquisition and installation of equipment, accessories and appurtenances that are necessary during the service life of the treatment works to maintain the capacity and performance for which the works were designed and constructed.

~~SANITARY SEWER.~~ A sewer that carries sewage and to which storm, surface and groundwaters are not intentionally admitted.

~~SERVICE AREAS.~~ The area served by the treatment works and for which there is no uniform user charge system.

~~SEWAGE.~~ Water-carried human wastes or a combination of water-carried wastes from residences, commercial buildings, institutions and industrial establishments, together with the ground, surface, storm or other waters as may be present.

~~SEWAGE WORKS.~~ All facilities for collecting, pumping, treating and disposing of sewage.

~~SEWER.~~ A pipe or conduit for carrying sewage.

~~SIGNIFICANT INDUSTRIAL USER.~~ Except as provided in subsection (3) of this definition, the term SIGNIFICANT INDUSTRIAL USER means:

- ~~(1) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N;~~
- ~~(2) Any other industrial user that discharges an average of 25,000 gallons per day or more process wastewater to the POTW (excluding sanitary, noncontact cooling and boiling blow-down wastewater); contributes a process waste stream which makes up five percent or more of the average dry weather, hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.3 on the basis that the industrial user has a reasonable~~

potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)); and

- (3) Upon finding that an industrial user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the control authority (as defined in 40 CFR 403.3) may at any time, on its own initiative or in response to a petition, receive from an industrial user or POTW, and, in accordance with 40 CFR 403.8(f)(6), determine that the industrial user is not a significant user.

SLUGLOAD. Any pollutant including BOD and COD, released in a nonroutine, episodic, non-customary batch discharge at a flow rate or concentration which has the potential to cause a violation of the specific discharge prohibitions in § 51.092.

STORM DRAIN or STORM SEWER. A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial waste, other than unpolluted cooling waters.

STORM WATER. Any flow occurring during or following any form of natural precipitation and resulting therefrom, including snowmelt.

SUSPENDED SOLIDS or TOTAL SUSPENDED SOLIDS (TSS). The total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquid, and which is removable by laboratory filtering.

TREATMENT PLANT. The portion of the POTW designed to provide treatment of sewage and industrial wastes.

TOXIC POLLUTANTS or POLLUTANTS. Those substances listed in 40 CFR Part 122, Appendix D, or 40 CFR Part 116, which is expressly incorporated herein, and any other substance(s) which, either singly or by interaction, may injure or interfere with any wastewater treatment process; may constitute a hazard to humans or animals; or may exceed any limitation adopted as a categorical pretreatment standard.

UPSET. An exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in this regulation, or limitation of a discharge permit, due to factors beyond the reasonable control of the discharger and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance or careless improper operation thereof.

USEPA. The United States Environmental Protection Agency.

USER. Any person who contributes, causes or permits the contribution of wastewater into the city wastewater collection system and treatment facility. USER is also defined as the person who is responsible for the payment of the sewer system charge.

USER CHARGE. The periodic charges levied on all users of the public treatment works, and shall, at a minimum, cover each user's proportionate share of the cost of operation and maintenance.

WASTE. Wastewater and all other waste substances, liquid, solid or gaseous waste resulting from any industrial, manufacturing, trade or business process or from the development, recovery or processing of natural resources.

~~WASTEWATER. Waste and water, whether treated or untreated, discharged into or permitted to enter a public sewer.~~

~~WASTEWATER SYSTEM or SYSTEM or CITY WASTEWATER SYSTEM or CITY SYSTEM. All city treatment works; all city sewers, pipes, and other conveyances discharging thereat; and all devices and systems used in the storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature. This shall include any portion of the system owned and maintained by the city.~~

~~WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.~~

~~51.092 GENERAL SEWER USE CONDITIONS.~~

~~(A) General discharge prohibitions:~~

~~(1) No person shall discharge or cause to be discharged any storm water, surface water, groundwater, road runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer or discharge water in violation of any provision of law, including §§ 51.020 and 94.05.~~

~~(2) Storm water and all other unpolluted drainage shall be maintained and disposed of on site, discharged to the sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the city. Industrial cooling water or unpolluted process waters may be discharged, on approval of the city and applicable regulatory agencies, to a storm sewer, combined sewer or natural outlet.~~

~~(3) No industrial user (IU) shall discharge, cause or permit to be discharged, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. These general and specific prohibitions apply to all IUs of the city's wastewater system whether or not the user is subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.~~

~~(B) Specific discharge prohibitions. No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes into the system:~~

~~(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction to cause fire or explosion or be injurious in any other way to the facilities or operations of the city. This prohibition includes waste streams with a closed cup flash point of less than 140 degrees F or 60 degrees C, using the test method specified in 40 CFR 261.21; or any waste stream which two consecutive readings on an explosive hazard meter, at the point of discharge into the system (or at any point in the system), are more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter.~~

~~(2) The flammable or explosive substances including, but not limited to, gasoline, kerosene, naphtha, benzene, hexane, toluene, xylene, ethers, alcohols, ketones, aldehyde peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.~~

- ~~(3) Solids (greater than one-half inch in any dimension) or viscous substances (including but not limited to petroleum oil, non-biodegradable cutting oil or products of mineral oil origin) which will or may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater system including, but not limited to: animal and vegetable-based fats, wax, grease or oils, emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 degrees F and 150 degrees F (0 degrees C and 65 degrees C).~~
- ~~(4) Any wastewater having a pH less than 5.5 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the city system, unless the city approves the waste in variance because of special conditions in the system, but in no case shall the pH be less than 5.0.~~
- ~~(5) (a) Any wastewater containing pollutants or other wastes in sufficient quantity (flow concentration including but not limited to BOD, COD, etc.), either singly or by interaction, to pass through or interfere with any wastewater treatment or solids handling and utilization process, or constitute a hazard to humans or animals, or to exceed any limitations adopted as categorical pretreatment standards.~~
- ~~(b) A toxic pollutant shall include, but not be limited to, any pollutant identified in the "Toxic Pollutant List" set forth in 40 CFR Part 122, Appendix D.~~
- ~~(c) All toxic pollutants shall be deemed to be prohibited or regulated substances for purposes of this subchapter.~~
- ~~(6) Any noxious or malodorous liquids, gases, solids or other wastewater which either singly or by interaction are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair. No discharge shall result in toxic gases, vapors or fumes within the collection or treatment system in a quantity that may cause worker health and safety problems.~~
- ~~(7) Any substance which may cause the system's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process or any substance which may cause the system to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or state standards applicable to the solids management methods being used.~~
- ~~(8) Any sludges, screenings or other residues from the pretreatment of industrial wastes.~~
- ~~(9) Any substance discharged in such a strength as to potentially cause the city system to violate its NPDES and/or other disposal system permits.~~
- ~~(10) Any trucked or hauled pollutants, except at discharge points designated by the city.~~

- (11) ~~Any substances identified as hazardous waste according to 40 CFR Part 261, except specifically authorized by the city.~~
- (12) ~~Any wastewater having a temperature which will inhibit biological activity in any city treatment plant resulting in interference; but in no case, wastewater with a temperature at the introduction into the POTW (measured at the nearest downstream manhole) which exceeds 104 degrees F or 40 degrees C.~~
- (13) ~~Any slugload.~~
- (14) ~~Any unpolluted water including, but not limited to, noncontact cooling water, rainwater, groundwater, surface drainage, roof drainage, water from yard fountains, ponds or pools (except filter backwash water from swimming pools and reject water) unless prior written approval has been obtained from the city. Any permitted pool water discharge must comply with DEQ testing and pH standards.~~
- (15) ~~Any wastewater containing any radioactive wastes or isotopes (except those included in "Oregon Regulations for the Control of Radiation," OAR 333-22-150) of the half-life or concentration as to exceed limits established by the city or any applicable state or federal regulations.~~
- (16) ~~Any wastewater which imparts color which cannot be removed by the treatment process such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the city's NPDES permit.~~
- (17) ~~Materials which exert or cause:~~
- ~~(a) Unusual concentrations of inert suspended solids (such as but not limited to fuller's earth, lime substrate and lime residues) or of dissolved solids (such as but not limited to sodium chloride and sodium sulfate);~~
 - ~~(b) Excessive discoloration (such as but not limited to dye wastes and vegetable tanning solutions);~~
 - ~~(c) Unusual BOD, chemical oxygen demand (COD) or chlorine requirements in the quantities as to constitute a significant load on the sewage treatment works; and/or~~
 - ~~(d) Unusual volume of flow or concentrations of wastes constituting "slugs" as defined herein.~~
- (18) ~~Waters or wastes containing substances which are not amenable to treatment or reduction by sewage treatment processes employed or are amenable to treatment only to the degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.~~
- (19) ~~Wastes prohibited by this section shall not be processed or stored in a manner so that these wastes could be discharged to the municipal wastewater system.~~

- ~~(C) Dilution. No user shall increase the use of potable or process water in any way, for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this subchapter or its discharge permit or in lieu of proper disposal of any material as solid waste. The city may impose mass limitations on dischargers that in its judgment appear to be using dilution to meet applicable pretreatment standards or requirements of this section, or in cases where the imposition of mass limitations is otherwise deemed appropriate by the city.~~
- ~~(D) More stringent limitations. The city retains the right to amend this subchapter to provide for more stringent limitations or requirements on discharges to the city system when deemed necessary.~~
- ~~(E) Categorical pretreatment standards. IUs subject to categorical pretreatment standards are required to comply with applicable standards set out in 40 CFR Chapter 1, Subchapter N, Parts 405 through 471.~~
- ~~(F) State requirements. Users are required to comply with applicable state pretreatment standards and requirements set out in OAR Chapter 340. These standards and requirements are incorporated herein.~~
- ~~(G) Specific pollutant limitations and local limitations. In addition to categorical pretreatment standards referenced in other portions of this subchapter, no SIU shall discharge wastewater containing pollutants into the system in excess of limitations specified in its wastewater discharge permit or other limits established by the city. The city may establish and revise from time to time standards for specific restricted substances. These standards shall be developed in accordance with 40 CFR 403.5 and shall implement the objectives of this subchapter. Standards established in accordance with this section will be deemed pretreatment standards for the purposes of 33 USC 1317. Wherever a discharger is subject to both categorical pretreatment standards and a local limit for a given pollutant, the more stringent shall apply.~~
- ~~(H) Mass limitations. The city may issue mass limitations for dischargers in addition to or in place of concentration-based limitations.~~
- ~~(I) Grease interceptor. A grease interceptor shall be installed on all building sewers for all commercial and multiple dwelling unit users. Any conversion to commercial or multiple dwelling use may be required to install a grease interceptor. The requirement for a grease interceptor may be waived by the city when a written request is filed indicating all of the following:~~
- ~~(1) The waste stream from the commercial establishment meets the terms of domestic waste defined in this subchapter; and~~
 - ~~(2) No kitchen facilities for public service or service to more than ten residents or dwelling units as defined herein.~~
- ~~(J) Oil and sand interceptors. Oil and sand interceptors shall be required when they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients; except that the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the city and shall be located as to be ready and easily~~

accessible for cleaning and inspection. The city shall be the final determiner of the requirements.

51.093 INDUSTRIAL WASTEWATER PERMITS.

(A) Discharge requirements:

(1) When requested by the city, an IU discharging or proposing to discharge industrial or commercial wastewater into any public sewer to the city system shall first apply for an industrial wastewater discharge permit, hereafter called "discharge permit," from the city.

(2) This discharge permit is required in addition to the commercial connection permit required for sanitary/domestic discharge.

(3) It is a violation of this subchapter for any IU to discharge nondomestic wastewater into the system if an application has been requested and a permit has not been issued.

(B) Application for discharge permit. Application for a discharge permit shall be made to the city on a city-approved format. Unless a specific exemption is granted in writing by the city, no discharge of nondomestic wastewater from the facility shall be allowed nor shall a permit be issued unless all conditions and provisions of this subchapter are met. A new application shall be required whenever federal categorical standards apply to a discharge, or when an SIU proposes a substantial change in its discharge. An application shall include a "baseline monitoring report" described in § 51.095(D), where applicable.

(C) Application time frame. Proposed new IUs shall apply for a discharge permit at least 90 days prior to the date that the discharge is proposed to commence. Additional data, information and drawings may be requested before a discharge permit is issued. The permit applicant shall promptly provide all requested information to the city.

(D) Hazardous waste compliance. Any industrial user who commences discharging after August 23, 1990, shall provide written notification in accordance with 40 CFR 403.120 of the discharge of any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.

(E) Certification. All applications, reports and information submitted to the city shall be signed and certified in accordance with 40 CFR 403.12(l). Any reports required in this subchapter and any other documents required to be submitted to the city or maintained by the industrial user shall be subject to applicable civil and criminal provisions of the city's rules and regulations and state law relating to fraud and false statements. In addition, the industrial user shall be subject to:

(1) The provisions of 18 USC 1001 relating to the fraud and false statements;

(2) The provisions of Section 309(c)(4) of the Clean Water Act, governing false statements; and

(3) The provision of Section 309(c)(6) of the Act regarding responsible corporate officers.

~~(F) Application/permit evaluation period. The city will evaluate the application and may require additional information. Within 60 days of receipt of a complete permit application, the city will determine whether to issue a wastewater permit. If no determination is made within this time period, the application will be deemed denied.~~

~~(G) Application/permit rejection. If any waters or wastes are discharged or are proposed to be discharged to the city's sewer system, which contain the substances or possess the characteristics enumerated in other sections of this subchapter, and which in the judgment of the city may have a deleterious effect upon the system, or which otherwise create a hazard to life, worker safety or constitute a public nuisance, the city may take any of the following actions:~~

~~(1) Reject the wastes;~~

~~(2) Require pretreatment to an acceptable condition prior to discharging to the system;~~

~~(3) Require control over the quantities and rates of discharge; or~~

~~(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this chapter.~~

~~(H) Compliance schedules. The city may require compliance schedules in any permit to ensure that the appropriate technology is installed in a time period acceptable to the city.~~

~~(I) Permit contents. Wastewater discharge permits shall contain at a minimum the conditions of 40 CFR 403.8(f)(1)(iii)(A) through (E). In addition, permits may contain the following:~~

~~(1) Fees and charges to be paid upon initial permit issuance;~~

~~(2) Limits on average and maximum rates and time of discharge and requirements for flow regulations and equalization;~~

~~(3) Requirements for installation and maintenance of inspection and sampling facility compatible with facilities of the city;~~

~~(4) Compliance schedules;~~

~~(5) Requirements for submission of special technical reports or discharge reports where the same differ from those prescribed by this subchapter; and~~

~~(6) An effective date and expiration date of the permit.~~

~~(J) Right of revision or permit modification. The city reserves the right to amend any wastewater discharge permit issued hereunder in order to assure compliance by the city with applicable laws and regulations. Upon promulgation, a new federal categorical standard for a particular industrial subcategory, if more stringent than the limits established under the city's current rules and regulations, will supersede the local standard. Permits will be modified as soon as possible subsequent to a change in the~~

federal requirements. The city shall notify the user of any proposed changes in its permit prior to the effective date of the change.

~~(K) Permit duration and property interest acquired. All wastewater discharge permits shall be issued for an initial period not to exceed five years as determined by the city. All permits are subject to amendment, revocation, suspension or termination as provided in this subchapter or rules adopted by the city. No user acquires any property interest by virtue of permit approval. Continued approval is expressly contingent upon compliance with all applicable federal, state and local requirements.~~

~~(L) Limitations on permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation and are not assignable to another user or transferable to another person or location without the prior written approval of the city. If a permitted industry facility is sold, the seller shall provide a copy of the existing discharge permit to the new owner or operator.~~

~~(M) Wastewater discharge permit revocation. Wastewater discharge permits may be revoked for any of the following reasons:~~

~~(1) Failure to notify the city of significant changes to the wastewater prior to the changed discharge;~~

~~(2) Falsifying self-monitoring reports or other required reports;~~

~~(3) Tampering with monitoring equipment or sample;~~

~~(4) Refusing to allow the city timely access to the facility premises or records;~~

~~(5) Failure to meet effluent limitations;~~

~~(6) Failure to pay fines, penalties or sewer service charges;~~

~~(7) Failure to meet compliance schedules;~~

~~(8) Failure to complete a wastewater survey;~~

~~(9) Failure to provide advance notice of the transfer of a permitted facility; or~~

~~(10) Violation of any pretreatment standard or requirement or any terms of the permit or this subchapter.~~

~~(N) Voiding permits. Permits shall be voided upon non-use or cessation of operations for a period of two years or longer, transfer of business ownership or upon issuance of a new wastewater discharge permit replacing a previous permit.~~

~~51.094 RESPONSIBILITY OF PERMIT HOLDER.~~

~~(A) Sampling facilities. When required by the city, the IU shall provide and operate, at the permit holder's expense, a monitoring facility, together with necessary meters and other appurtenances to allow inspection, sampling and flow measurement of each industrial sewer discharge to the city. The monitoring facility shall be approved by the city prior to~~

being installed. When possible, the sampling site shall be located outside the building or structure, on the permit holder's premises, and be easily accessible from a public road, street, parking lot or paved area. The permit holder shall maintain safe access to the sampling site at all times.

(1) There shall be ample room in or near the facility to allow for accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the permit holder, as directed in the city-approved permit.

(2) All sampling facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. The sampling facility may be revised, but the city must approve these revisions. All sampling facility plans must be submitted to and approved by the city prior to construction, regardless of whether or not the standard details are used. Construction shall be completed within 60 days of city approval or within ten days of receipt of permit by the permit holder, except as otherwise approved by the city.

(B) Operation and maintenance. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, the owner, at the permit holder's expense, shall maintain them continuously in satisfactory and effective operation.

(C) Plans review:

(1) All plans for pretreatment facilities, interceptors, etc., required pursuant to this subchapter or rules shall be approved by the city prior to implementation. Approval of pretreatment facilities, interceptors, etc., by the city does not relieve the owner or permit holder of the responsibility to install and operate equipment necessary to perform the required function and to meet all permit requirements.

(2) The permit holder shall maintain records of all pretreatment facilities which reflect routine maintenance check dates, calibration, cleaning, waste removal dates, manifests of wastes removed from the site and the means of disposal of accumulated wastes.

(3) Approval by the city of plans under this subchapter does not represent assurance that the facilities will meet a discharge permit.

(D) Control of discharge. It shall be the responsibility of the permit holder or user to control the discharge into the city sewerage system or any private or side sewer which drains into the city's system so as to comply with this subchapter and the requirements of any applicable wastewater discharge permit issued pursuant to the provisions of this subchapter. Notwithstanding any permit conditions, the city may (after notification to the permit holder or user) order that any discharge which may appear to present an imminent endangerment to the health and welfare of persons be immediately and effectively halted from entering the collection system.

(E) IU facility inspections. The city may inspect the facilities of any IU to determine compliance with the requirements of city rules and regulations. The permit holder shall allow the city or its representatives to enter upon the premises at all reasonable hours and without prior notification by the city, for the purposes of inspection, sampling, and records examination.

and copying. The city shall have the right to set upon the permit holder's property the devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operation:

- ~~(1) Where a permit holder has security measures in force which require proper identification and clearance before entry into their premises, the permit holder shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the city, state, and USEPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.~~
 - ~~(2) The city, state, and USEPA shall have the right to set up or require installation of, on the permit holder's property, the devices as are necessary to conduct sampling and/or metering of the permit holder's operations.~~
 - ~~(3) The city may require the permit holder to install monitoring equipment, as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the permit holder at its expense. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.~~
 - ~~(4) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the permit holder at the written or verbal request of the city and shall not be replaced. The costs of clearing the access shall be borne by the permit holder.~~
 - ~~(5) Unreasonable delay in allowing city personnel access to the permit holder's premises shall be a violation of this subchapter.~~
- ~~(F) Sampling requirements. Except as otherwise expressly stated in a permit, sampling shall be performed according to this subsection. If a permit holder subject to self-monitoring and reporting requirements as set forth in its city discharge permit monitors any pollutant more frequently than required in the discharge permit, using the procedures prescribed in 40 CFR 403.12(g)(4) and (5), the results of this monitoring shall be included in the permit holder's reports:~~
- ~~(1) SIUs shall submit to the city at least once every six months, or as otherwise specified by the city, a description of the nature, concentration and flow of the pollutants required to be reported to the city. These reports shall be based on sampling and analysis performed in the period covered by the report and performed in accordance with the techniques described in 40 CFR Part 136.~~
 - ~~(2) The IU shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the city) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of the operations.~~
 - ~~(3) A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organics. For all other pollutants, a 24-hour composite sample must be obtained through flow-proportional composite~~

sampling techniques when feasible. The city may waive flow-proportional composite sampling for any IU that demonstrates that flow-proportional sampling is unfeasible. In the case samples may be obtained through time-proportional composite sampling techniques through a minimum of four grab samples where demonstrated that this would provide a representative sample of the effluent being discharged.

~~(4) The IU shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection. Samples shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the IU shall measure the flows at concentrations necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e) in order to evaluate compliance with the pretreatment standards. Where alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit and supporting data shall be submitted to the city.~~

~~(5) Where 40 CFR Part 136 does not contain sampling analytical techniques for the pollutant in question, or where the USEPA Administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling at analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the city or other persons approved by the USEPA Administrator. This sampling and analysis may, upon approval by the city, be performed by the city in lieu of the industrial user.~~

~~(G) Special agreements. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern.~~

~~(H) Records retention. All users subject to this subchapter shall retain and preserve, for no less than three years, all records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analysis made by or in behalf of a user in connection with its discharge. All records shall be subject to review by the city. The retention period may be extended beyond three years at the request of the city. All records which pertain to matters which are the subject of an enforcement or litigation activities brought by the city pursuant hereto 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.~~

~~(I) Wastewater permit renewals. SIUs may be required to apply for permit renewals within 90 days prior to the expiration date in the existing wastewater permit.~~

51.095 REPORTING REQUIREMENTS.

~~(A) General requirements:~~

~~(1) All measurements, tests and analysis of the characteristics of wastewater to which reference is made in this section shall be in accordance with 40 CFR Part 136 or~~

~~alternate protocols approved by EPA Region 10 Administrator or NPDES permit-specific basis and shall be determined at the control manhole provided, or upon testing of suitable samples taken at the control manhole.~~

~~(2) IUs may be required to submit test results from samples of their wastewater discharged or other appropriate information requested by the city on a routine and continuing basis for any or of the following reasons:~~

~~(a) To comply with the terms and provisions of 40 CFR 403.12;~~

~~(b) If requested by any applicable state or local public agencies;~~

~~(c) If required to determine monthly sewer service charges as described by applicable city ordinance;~~

~~(d) If deemed necessary by the city for the proper treatment, analysis or control of wastewater discharges. The IU shall bear the costs of any tests and reports. The city shall have the right to enforce the requirements of 40 CFR 403.12. When deemed necessary by the city, an IU may be required to obtain, install, operate and maintain an automatic sampler and/or analyzer to monitor its industrial waste discharges; or~~

~~(e) If required by the discharge permit.~~

~~(B) User's responsibility. It is the IU's responsibility to keep informed of all state and federal wastewater analysis and reporting requirements. Any failure to do so shall not excuse the permit holder from compliance with the requirements.~~

~~(C) Discharge reports. Discharge reports shall contain all results of sampling and analysis of the discharge, including the flow, the nature and concentration of pollutants, and production and mass where required by the city.~~

~~(D) Baseline monitoring report.~~

~~(1) Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision on a category determination under 40 CFR 403.6 (a)(4), whichever is later, existing users currently discharging to or proposing to discharge to the city shall submit to the city a report containing the information listed in subsection (E) of this section.~~

~~(2) At least 90 days prior to commencement of their discharge, new sources, including existing users which have changed their operation or processes so as to become new sources, shall be required to submit to the city a report which contains the information listed in subsection (E) of this section. A new source shall also report the method it intends to use to meet applicable pretreatment standards and give estimates of its anticipated flow and quantity of pollutants discharged.~~

~~(E) Information required. The information required by this section includes:~~

~~(1) Identifying information. The user shall submit the name and address of the facility, including the name of the operator and owners;~~

- ~~(2) Permits. The user shall submit a list of any environmental control permits held by or for the facility;~~
- ~~(3) Description of operation. The user shall submit a brief description of the natural average rate of production, and standard industrial classifications of the operations carried out by the industrial user. This description should include a schematic process diagram which indicates points of discharge to the system from the regulated processes;~~
- ~~(4) Flow measurement. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the system from regulated process streams and other streams as necessary to allow use of the combined waste stream formula set out in 40 CFR 403.6(e);~~
- ~~(5) Measurement of pollutants:~~
- ~~(a) The industrial user shall identify the categorical pretreatment standard applicable to each process;~~
 - ~~(b) In addition, the IU shall submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be performed in accordance with procedures set out in 40 CFR Part 136, or a city approved equal; and~~
 - ~~(c) A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. All other pollutants will be measured by composite samples obtained through flow proportional sampling technique. If flow proportional composite sampling is unfeasible samples may be obtained through time-proportional sampling techniques or through four grab samples if the user proves the samples will be representative of the discharge.~~
- ~~(F) Report on compliance with categorical deadlines. Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or, in the case of a new source, following commencement of the introduction of wastewater in the sewer system, any industrial user subject to pretreatment standards and requirements shall submit to the city a report indicating the nature and concentration of all pollutants in the waste stream, as required by subsection (D) of this section.~~
- ~~(1) For IUs subject to equivalent mass or concentration limits established by the city in accordance with 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other IUs subject to categorical pretreatment standards expressed in terms of allowable pollutants discharge per unit of production or other measure of operation, this report shall include the IU's actual production during the appropriate sampling period.~~
 - ~~(2) This report shall also contain the average and maximum daily flows for the process waste streams, and whether the applicable pretreatment standards are being met~~

on a consistent basis. If they are not being met on a consistent basis, the report shall identify what additional pretreatment or operation and maintenance is necessary to bring the industrial user into compliance. This report shall be signed by an authorized representative of the industrial user and certified to by a qualified professional.

~~(G) Schedule of compliance. If the industrial user is required to install additional pretreatment or provide additional operation and maintenance, the user will be required to submit a schedule:~~

~~(1) The schedule shall contain increments of progress in the form of milestone dates for commencement and completion of major events leading to the construction and operations of additional operation and maintenance or pretreatment (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, etc.). No increment of progress shall exceed nine months.~~

~~(2) The industrial user shall submit a progress report to the city including, at a minimum, whether or not it complied with the increment of progress to be met on the date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the industrial user to return the construction to the schedule established. This progress report shall be submitted no later than 14 days following each date in the schedule and the final date of compliance. In no event shall more than nine months elapse between the progress reports to the city.~~

~~(3) If compliance milestone dates are not met or reports not submitted when due, the city may take appropriate enforcement action for lack of satisfactory progress toward compliance. (See § 51.096.) Schedules of compliance may be inserted into an IU's discharge permit, as provided in this subsection (G).~~

~~(H) Periodic compliance reports. Any IU subject to categorical pretreatment standards, or subject to sampling, testing and reporting schedules set out in the user's permit, shall submit to the city all reports required indicating the nature of the effluent discharged since the last reporting period:~~

~~(1) The report shall include, but is not limited to, a record of the concentrations (and mass limited in the permit) of the limited pollutants that were measured and a record of all pH and flow measurements that were taken.~~

~~(2) If an industrial user subject to the reporting requirements listed above monitors any pollutant more frequently than required by the city, the results of this monitoring shall be included in the report.~~

~~(I) Reporting of violation/resampling requirement. If sampling performed by an industrial user indicates a violation, the user shall notify the city within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the city within 30 days after becoming aware of violation.~~

~~(J) Slugload reporting:~~

- (1) Dischargers shall notify the city immediately upon occurrence of a "slug" or accidental discharge of substances prohibited by this subchapter. The notification shall include the location of discharge, date and time thereof, type of waste, concentration and volume, corrective action and steps being taken to reduce any adverse impact.
- (2) Any discharger who discharges a "slug(s)" of prohibited materials shall be liable for any expense, loss or damage to the POTW, in addition to the amount of any fines imposed on the city under state or federal law, and may also incur monetary penalties by the city.
- (K) Change in discharge. The IU shall report to the city any changes, permanent or temporary, to the permittee's premises or operations that may result in change of the quality or volume of the wastewater discharge:
- (1) Changes in the discharge involving the introduction of a waste stream(s) not included in or covered by the discharge permit application shall be considered a new discharge requiring completion of an application as described under § 51.093. Any reporting shall not be deemed to exonerate the permittee from liability for violations of this subchapter.
- (2) All industrial users shall promptly notify the city in advance of any proposed anticipated change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(p).
- (L) Notification of significant production change:
- (1) In accordance with 40 CFR 403.6(e), any IU operating under a city permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the city within two business days after the IU has a reasonable basis to know that the production level will significantly change within the next calendar month.
- (2) Any IU not notifying the city of anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate.
- (M) Industrial user hazardous waste reporting. Industrial users shall notify the city (POTW), the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other):
- (N) TFO reporting. Those industries which are required by EPA to eliminate and/or reduce the levels of toxic organics (TFOs) discharged into the sewer system must follow the federal effluent guidelines for that industry.

~~(O) Certification of all reports. All reports submitted by significant industrial users shall include the certification statement defined in 40 CFR 403.6(a)(2)(ii) and signed by the appropriate official as designated in 40 CFR 403.12(l).~~

~~51.096 ADMINISTRATIVE AND JUDICIAL ENFORCEMENT.~~

~~(A) Industrial user violation process. If the city determines that a violation by an industrial user has occurred or is taking place, a representative of the city shall make a reasonable effort to notify the user of the violation. All violations including the first violation shall receive a written notice of violation and may also incur a monetary penalty.~~

~~(1) All written notices of violations shall describe the violation and any potential penalty (monetary or additional pretreatment). The written notice may further require that response to the violation be submitted to the city within ten days.~~

~~(2) If a written notice of violation requires submittal of a response, the response shall include an explanation of the violation, a plan for the satisfactory correction and prevention of future violations, and specific corrective or preventive action. Submission of this plan in no way relieves the user of liability for any violation occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take emergency action without first issuing a notice of violation.~~

~~(B) Violation:~~

~~(1) A violation of limitations established under § 51.092, any applicable federal, state or city pretreatment standards, or specific requirements of a discharge permit shall constitute a violation of this subchapter and shall be cause for enforcement action by the city, including but not limited to citation or levying of administrative penalties described in this section, regardless of the intent of the user. Each day of a continuing violation shall constitute a separate offense for purposes of computing the applicable penalty.~~

~~(2) Whenever the city finds that any IU has violated or is violating this subchapter, wastewater permit or order issued hereunder, or any other pretreatment requirement, the city shall cause to be served upon the IU a written notice of violation. The notice of violation shall be delivered to the user's premises or be sent by regular mail to the address of the permit holder on record with the city. It may be sent together with the industrial user's monthly billing notice.~~

~~(C) Permit parameters:~~

~~(1) For the maximum daily allowable concentration, if the concentration of any single sample (whether grab or a sample within a series) exceeds the limitations, a violation will have occurred;~~

~~(2) For the monthly average allowable concentration, if the average of all sample(s) (grab or composite) taken exceeds the limitation, a violation will have occurred. One sample collected may constitute a monthly average violation.~~

~~(D) Additional violation parameters. Include, but are not limited to, the following:~~

- (1) ~~For noncompliance with any special reporting requirements established by permit, written request of the city, or as specified by general federal pretreatment standards (40 CFR 403.12);~~
 - (2) ~~Pollutants prohibited in § 51.092 are discharged into the system;~~
 - (3) ~~Failure to apply for and obtain a permit prior to discharge of industrial wastewater in the system.~~
- (E) ~~IU notifying city of violation. If sampling performed by an industrial user indicates a violation, the industrial user shall notify the city within 24 hours of becoming aware of the violation. The user shall also resample and report the results within 30 days of becoming aware of violation pursuant to 40 CFR 403.12(g)(2). Resampling must continue until it is evident the discharge is within compliance.~~
- (F) ~~Affirmative defense. The city does not recognize the "affirmative action" defense defined in the federal regulations.~~
- (G) ~~Consent orders. The city may enter into consent orders, assurance of voluntary compliance, or other similar documents establishing an agreement with the IU responsible for the noncompliance. Orders will include specific action to be taken by the IU 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 and upon issuance, orders shall be judicially enforceable.~~
- (H) ~~Show cause hearing:~~
- (1) ~~The city may order any IU which causes or contributes violation(s) of this subchapter, wastewater permits or orders issued hereunder or any other pretreatment requirement, to appear before the city or the Code Hearings Officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the IU specifying the time and place for the hearing, the proposed enforcement action, the reasons for the action, and an order that the IU show cause why this proposed enforcement action should not be taken.~~
 - (2) ~~The notice of the hearing shall be served personally or by registered mail (return receiving requested) at least ten days prior to the hearing. The notice may be served on any authorized representative of the IU. Whether or not the IU appears as notified, immediate enforcement action may be pursued following the hearing date.~~
- (I) ~~Compliance orders:~~
- (1) ~~When it is found that an IU has violated or continues to violate this subchapter, permits or orders issued hereunder, or any other pretreatment requirement, an order may be issued to the IU responsible for the discharge directing that, following a specific time period, sewer service shall be discontinued unless adequate treatment facilities, device or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements as might be reasonably necessary and appropriate to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer.~~

- ~~(2) In addition to compliance orders, additional self-monitoring for at least 90 days may be required after consistent compliance has been achieved, after which time the self-monitoring conditions in the discharge permit shall control.~~
- ~~(J) Significant noncompliance. Significant noncompliance is deemed to have occurred if a violation meets one or more of the following criteria:~~
- ~~(1) Chronic violations of wastewater discharge limits, defined as those in which 66% or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;~~
 - ~~(2) Technical review criteria (TRC) violations are defined here as those in which 33% or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC. (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);~~
 - ~~(3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the city determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of city personnel or the general public);~~
 - ~~(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the city's exercise of its emergency authority, as defined in 40 CFR 403.8(f)(1)(vi)(B), to halt or prevent a discharge;~~
 - ~~(5) Failure to meet, within 90 days after the scheduled date, a compliance schedule contained in a local control mechanism or enforcement order, for starting construction, completing construction or attaining final compliance;~~
 - ~~(6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports (BMR), 90-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;~~
 - ~~(7) Failure to accurately report noncompliance; and~~
 - ~~(8) Any other violation or group of violations which the city determines will adversely affect the operation and implementation of the local pretreatment program.~~
- ~~(K) Publication of significant violators. A list of all industrial users which were in significant noncompliance (as defined above) during the 12 previous months shall be annually published by the city in the largest daily newspaper published in the city, summarizing the enforcement actions taken against users during the previous 12 months.~~
- ~~(L) Other penalties:~~
- ~~(1) If the violation is not corrected within a reasonable period of time determined by the city, or as specified in a consent order or compliance order, or if there appear to be indications of repetition of the violation, a citation or enforcement proceeding may~~

be initiated. The city may impose an applicable compliance schedule. Compliance schedules may not extend the compliance date beyond any applicable federal deadlines:

(2) Notwithstanding any other provision of this subchapter, the city may, in its discretion and at any time, impose discharge permit limitations penalties/charges or seek civil and criminal penalties pursuant to applicable city ordinance.

(M) Cease and desist orders. When the city finds that an industrial user has violated or continued to violate this subchapter, any permit or order issued hereunder, or any other pretreatment requirement, the city may issue an order to the industrial user directing it to cease and desist all violations and directing the user to:

(1) Immediately comply with all requirements; or

(2) Take appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(N) Administrative appeals of enforcement actions:

(1) An industrial user desiring to dispute any fine, penalty or other administrative enforcement action under this subchapter must, within ten days of receipt of notice of any action, file a written appeal pursuant to Chapter 136.

(2) The request for review shall state any facts and mitigating circumstances which the IU wishes to be considered. The review authority may sustain, reduce or eliminate any fine, and may modify any enforcement action, upon a finding that:

(a) The original action of the city in imposing a fine or other enforcement action was based upon a substantial error of fact, which shall be stated;

(b) The original action of the city was based upon improper application of city ordinance or regulations to the facts, in which case the correct application shall be stated; or

(c) The user has presented mitigating facts or circumstances to the city which would justify modification of the original order.

(3) If the review authority finds that the facts and application of this subchapter were correct, and mitigating circumstances do not justify modifying the original action, the action shall be sustained.

(O) Emergency suspensions. The city may suspend the wastewater permit of an industrial user, whenever suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons, interferes with the operation of the municipal wastewater system or which presents or may present an endangerment to the environment:

(1) Any industrial user notified of a suspension of its wastewater permit shall immediately stop or eliminate its discharge. In the event of an industrial user's

failure to immediately comply voluntarily with the suspension order, the city may take steps as it deems necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the system, its receiving stream, or to any person. The city shall allow the industrial user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, and no repetition is likely, unless termination proceedings set forth in § 51.096 are initiated by the city.

~~(2) An industrial user which causes or permits any discharge presenting immediate endangerment to the public or the environment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the city prior to the date of any show cause or termination hearing discussed elsewhere in this subchapter.~~

~~(P) Termination of permit:~~

~~(1) In addition to all other penalties and remedies in the subchapter, the city may terminate the permit of any industrial user. Violations of the conditions of this subchapter, wastewater permits or orders issued hereunder are subject to permit termination. Justifications for permit termination include, but are not limited to, the following:~~

~~(a) Violation of permit conditions;~~

~~(b) Failure to accurately report the wastewater constituents and characteristics of its discharge;~~

~~(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge; and~~

~~(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.~~

~~(2) Prior to terminating a permit, the city shall notify the permittee of its proposed termination. The permittee may appeal the termination as provided in Chapter 136, which appeal shall be expedited as reasonably practicable.~~

~~(Q) Judicial enforcement remedies:~~

~~(1) Notwithstanding any other provision, whenever an industrial user has violated or continues to violate the provisions of this subchapter, permits or orders issued hereunder, or any other pretreatment requirements, the city may declare such violation to be a nuisance or petition the courts for the issuance of temporary or permanent injunction, as may be appropriate, which restrains or compels the specific performance of the wastewater permit, order or other requirement imposed by this subchapter on activities of the industrial user.~~

~~(2) Other action as may be appropriate for legal and/or equitable relief may also be sought by the city.~~

~~51.097 ADDITIONAL PROVISIONS CONCERNING INDUSTRIAL USERS.~~

~~(A) Miscellaneous information. The city may request at any time reports, data or information from any user to ensure compliance with all applicable laws by the city and the user. The user shall promptly provide the city with any reports, data or information requested.~~

~~(B) Warrants. The city may seek an administrative warrant, including but not limited to an inspection warrant, or seek a search warrant as provided in Chapter 139 or otherwise by law.~~

~~(C) Confidential information:~~

~~(1) Information and data on an industrial user obtained from reports, questionnaires, permit application, permits and monitoring programs, and from city inspection and sampling activities shall be available to the public without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the city that the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state laws.~~

~~(2) Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction unless prohibited by law.~~

~~(3) When requested and demonstrated by the industrial user finishing a report that the information should be held confidential and the city may keep the information confidential as provided by law, the portions of a report which might disclose a trade secret or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to this subchapter, the National Pollutant Discharge Elimination System (NPDES) program, and enforcement proceedings involving the person furnishing the report.~~

~~(D) Pretreatment charges and fees. The city may adopt reasonable charges and fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:~~

~~(1) Fees for permit applications including the cost of processing applications;~~

~~(2) Fees for monitoring, inspection and surveillance procedures including the cost of reviewing, monitoring reports submitted by the industrial user;~~

~~(3) Fees for reviewing and responding to accidental discharge procedures and construction;~~

~~(4) Fees for filing appeals;~~

~~(5) Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines and penalties chargeable by the city.~~

FATS, OILS, AND GREASE (FOG) ABATEMENT PROGRAM

51.15090 PURPOSE STATEMENT AND REGULATORY AUTHORITY.

This article sets forth uniform requirements for users of the PTW for the control authority of the City of Hermiston and enables the Control Authority to comply with all applicable State and Federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the general pretreatment regulations (40 CFR Part 403). The objectives of this article are:

- (A) To prevent the introduction of fats, oils, and grease (FOG) into the PTW that will interfere with its operation;
- (B) To prevent sanitary sewer overflows in alignment with EPA-833-F-12-003 guidelines;
- (C) To provide for fees for the equitable distribution of the cost of operation and enforcement of a FOG abatement program; and
- (D) To enable the control authority to comply with its National Pollutant Discharge Elimination System permit (NPDES) conditions, biosolids use and disposal requirements, and any other federal or state laws to which the PTW is subject.

This article authorizes provisions for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. (Ord. 2367, passed 11-12-24)

51.15101 APPLICABILITY.

This article shall apply to all users of the PTW. Any facility with a temporary or permanently plumbed connection to the control authority sewer system that has the potential to generate discharges of animal and/or vegetable-based FOG must comply with these rules. ~~Ord. 2367, passed 11-12-24~~

51.15202 ADMINISTRATION.

Except as otherwise provided herein, the control authority, as defined in this chapter, shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the control authority may be delegated by the control authority to his/her authorized representative. (Ord. 2367, passed 11-12-24)

51.15303 ABBREVIATIONS AND DEFINITIONS.

- (A) Abbreviations. The following is a list of abbreviations that may appear in the document and be related to the FOG ordinance:

CFR	Code of Federal Regulations
FE	Food establishment
FOG	Fats, oils, and grease

FSE	Food service establishment
IAPMO Officials	International Association of Plumbing and Mechanical Officials
OAR	Oregon Administrative Rules
OR-DEQ	Oregon Department of Environmental Quality
PTW	Public treatment works
U.S. EPA	United States Environmental Protection Agency
USC	United States Code
PDI	Plumbing Drainage Institute

(B) Definitions. The following definitions shall apply unless the context clearly indicates or requires a different meaning:

AUTHORITY HAVING JURISDICTION (AHJ). An agency or officer that is responsible for compliance within a defined area.

BEST MANAGEMENT PRACTICES (BMPs). Schedules of activities, requirements or prohibitions of practices, operating procedures, maintenance procedures, and other management procedures used to reduce the amount of pollutants entering the control authority's wastewater system. (40 CFR 403.3(e))

BYPASS. The intentional diversion of one or more waste streams or processes from any portion of an IU's treatment facility.

CONTROL AUTHORITY. The City of Hermiston.

FATS, OILS AND GREASE (FOG). Fats, oils, or greases of animal or vegetable origin in amounts that may cause obstructions or maintenance problems in the sanitary sewer system or in the PTW.

FOOD ESTABLISHMENT (FE). A retail food store includes the preparing, packaging, storing, handling, or displaying of food for sale to the consumer or user such as full-service grocery stores, convenience stores, food ready-to-bake, and other facilities preparing food for consumption that is not consumed on site.

FOOD SERVICE ESTABLISHMENT (FSE). A facility that engages in activities of preparing or serving food or beverage for consumption by person(s) either on or off the premises, including but not limited to restaurants, cafes, commercial kitchens, caterers, hotels and motels, schools, hospitals, prisons, correctional facilities, nursing homes, care institutions, mobile food units (such as food trucks), and any other facility preparing and serving food for consumption.

GRAVITY GREASE INTERCEPTOR. A plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept nonpetroleum FOG from a wastewater discharge

and is identified by volume, 30-minute retention time, baffle(s), not less than two compartments, a total volume of not less than 300 gallons (1,135 liters), and gravity separation. These interceptors must comply with the requirements of Chapter 10 of the Oregon Plumbing Specialty Code or be designed by a registered design professional. Gravity grease interceptors are generally installed outside.

GREASE INTERCEPTOR. A plumbing appurtenance or appliance installed in a sanitary drainage system to intercept or separate certain wastes from wastewater. This term includes but is not limited to grease interceptors, oil/water separators, sand or sediment interceptors, lint interceptors, and hair interceptors.

HYDROMECHANICAL GREASE INTERCEPTOR. A plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept nonpetroleum fats, oil, and grease (FOG) from a wastewater discharge and is identified by flow rate, and separation and retention efficiency. The design incorporates air entrainment, hydromechanical separation, interior baffling, or barriers in combination or separately, and one of the following:

- (1) External flow control, with air intake (vent), directly connected;
- (2) External flow control, without air intake (vent), directly connected;
- (3) Without external flow control, directly connected;
- (4) Without external flow control, indirectly connected.

These interceptors must comply with the requirements of Table 1014.2.1 of the Oregon Plumbing Specialty Code. Hydromechanical grease interceptors are generally installed inside.

INTERFERENCE. A discharge which, alone or in conjunction with a discharge from other sources, both:

- (1) Inhibits or disrupts the municipal wastewater system, its treatment processes operations, or its solids handling processes, use or disposal; and
- (2) Therefore is a cause of a violation of any requirements of the NPDES permit (including an increase in magnitude or duration of a violation) or of the prevention of biosolids use or disposal in compliance with the following statutory provisions and regulations of a permit issued thereunder (or more stringent state or local regulations): § 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title H), the Resource Conservation and Recovery Act (RCRA) and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act, as defined in 40 CFR 403.3(i).

PASS-THROUGH. A discharge of FOG exiting the grease interceptor in quantities or concentrations which alone or in conjunction with discharge(s) from other sources that cause blockages or build-up in the public sanitary sewer system (40 CFR 403.3(p)).

PUBLIC TREATMENT WORKS (PTW). A "treatment works" as defined in USC 33 Chapter 36, § 292, which is owned by the state or municipality. The definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the IUs and responsibility for the operation and maintenance of the treatment works.

SANITARY SEWER. A piping or conduit system that carries wastewater from residential, commercial, or industrial sites to a wastewater treatment plant for processing.

SEWER USER. An individual or entity who discharges wastewater to the sanitary sewer.

STORM WATER SEWER. Any structure or configuration of ground that is used or by its location becomes a place where storm water flows or is accumulated including, but not limited to: pipes, sewers, curbs, gutters, manholes, catch basins, ponds, creeks, open drainage ways, ditches, and their appurtenances.

WASTEWATER. Water-carried wastes from residences, business buildings, institutions, and industrial establishments and any liquid wastes. (Ord. 2367, passed 11-12-24)

FOG PRETREATMENT REQUIREMENTS

51.15404 GREASE INTERCEPTORS AND APPURTENANCES.

- (A) Any new or existing facility with a temporary or permanently plumbed connection to the city sewer system that has the potential to generate discharges of animal and/or vegetable-based FOG must install a grease interceptor device at the owner's expense when, in the opinion of the control authority, an interceptor is necessary to ensure that wastewater discharged to the PTW does not exceed the FOG local limit.
- (B) The control authority may determine that a change of use or operation at a facility creates the potential to discharge FOG and require the installation of a grease interceptor device.
- (C) If FOG accumulation is found during maintenance of public sewer lines, upstream sewer users will be inspected. Interference with the operation of the sanitary sewer is a violation of 40 CFR 403.5(b)(3) or 403.5(b)(6). If the control authority determines that an FSE was responsible for FOG discharge that caused an interference, the FSE may be required to cease discharge of the prohibited waste until a grease interceptor is installed in accordance with this chapter. Administrative fines may be issued.
- (D) If used, a grease interceptor shall be located to be readily accessible for inspection, maintenance, and cleaning.
- (E) All grease interceptors must be installed in accordance with the Oregon Plumbing Specialty Code. Removal is recommended for facilities that have abandoned use of a grease interceptor. Removal of grease interceptors must be done in accordance with the Oregon Plumbing Specialty Code.
- (F) The control authority may require a premise isolation interceptor to be installed on private property at a location closest to the point of connection. In lieu of premise isolation, the

control authority may accept in-premises grease interceptors when the device is maintained in accordance with these rules.

- (G) Interceptors with a rated capacity of 100 gallons or less that are required under this municipal code shall be manufactured in accordance with standard PDI G-101, Testing and Rating Procedure for Hydro Mechanical Grease Interceptors, and shall be listed as certified by the Plumbing Drainage Institute at the time of initial inspection. Interceptors with a rated capacity greater than 100 gallons that are required under this code shall be built and installed in accordance with IAPMO Z1001.
- (H) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible substance detection meter. (Ord. 2367, passed 11-12-24)

51.15505 INTERCEPTOR REGULATIONS.

- (A) Under no circumstance will domestic waste be allowed to discharge into a grease interceptor required under this article.
- (B) Floor mats, grills, kettles, and other greasy equipment should be cleaned in an area where all cleaning water will flow through a grease interceptor prior to entering the wastewater collection system. The pH for cleaning products used for greasy equipment must be within the utility's local limits. When degreaser chemicals are used for equipment cleaning they should be diluted with water at a ratio of 10:1 or greater.
- (C) To prevent grease passing through the grease interceptor: high-temperature water, over 140° Fahrenheit, must be cooled before discharge in accordance with § 51.022094.
- (D) Wastewater from cleaning kitchen exhaust hoods and other appurtenances must be hauled off site unless the pH and temperature limits are met and degreaser dilution ratio in subsection (B) of this section is maintained.
- (E) The control authority approved local limits for discharge to wastewater may include a limit for FOG. Such a limit applies to all facilities required to install grease interceptors. (Ord. 2367, passed 11-12-24)

51.15606 INTERCEPTOR MAINTENANCE.

- (A) Such interceptors shall be inspected, cleaned, and maintained regularly, as needed, by the user at the user's expense. Cleaning the interceptor shall include removal of all contents, including floating materials, wastewater, bottom sludge, and solids, and pressure washing or scraping of all accumulated grease from walls and baffles.
- (B) The maintenance frequency shall be established such that FOG or food solids do not leave the interceptor and enter the sanitary sewer collection system. Frequency of cleaning shall be determined by property owners on an individual basis and may partially be based on an appropriate accommodation of the volume of material collected to prevent discharge of FOG to the public sewerage system. The control authority shall preserve the right to prescribe or require an increase of a user's cleaning frequency.

- (C) The use of any additive, such as enzymes, chemicals or bacteria as a substitute for a grease trap or interceptor, or as a substitute for maintenance of a grease trap or interceptor, is prohibited. In no case shall any additive, other than detergents or soap, which emulsifies FOG, be used.
- (D) All wastes removed from the interceptor shall be legally disposed of other than to the sewer or storm drainage systems.
- (E) “Decanting,” or the returning of any liquid or waste that is removed during cleaning back into the interceptor or into the sewer, is prohibited.
- (F) Grease interceptors with a hydraulic capacity of less than 300 gallons must be filled with clean, cold water after evacuation, prior to usage.
- (G) Cleaning of grease interceptors shall be performed by a professional interceptor service company unless the user receives approval from the control authority to remove FOG from the interceptors (self-cleaning). Violations of this article by interceptor self-cleaners are subject to enforcement action including fines and/or removal from the self-cleaner program. (Ord. 2367, passed 11-12-24)

RECORDS AND REPORTING

51.15707 MAINTENANCE REPORTING.

Maintenance records shall indicate for each cleaning event, at a minimum, the date of cleaning, name, and signature of the person or company servicing the interceptor, the cleaning method, gallons of waste removed, whether or not FOG were found in the inspection port, statement of general condition or malfunction, and final waste disposal location. (Ord. 2367, passed 11-12-24)

51.15808 LOCATION OF RECORDS.

The facility shall maintain grease interceptor cleaning records at the facility where the interceptor is located. Such records must be readily available for control authority inspection. The control authority may require the user to submit cleaning records each time the grease interceptor is cleaned. (Ord. 2367, passed 11-12-24)

51.15909 RECORDS RETENTION.

All records of cleaning activities shall be maintained at the facility where the interceptor is located for a minimum of three years. (Ord. 2367, passed 11-12-24)

FOG PERMITS AND PERMIT ISSUANCE

51.16010 WASTEWATER ANALYSIS.

When requested by the control authority, a sewer user or prospective sewer user must submit information on the nature and characteristics of its wastewater within 60 days of the request. The control authority is authorized to prepare a form for this purpose and may periodically require sewer users to update this information. (Ord. 2367, passed 11-12-24)

51.161~~11~~ FOG PERMIT REQUIREMENT.

- (A) No FSE/FE shall discharge wastewater into the PTW without first obtaining a FOG permit from the control authority, except when an FSE/FE has filed a timely application pursuant to § 51.112~~162~~ it may continue to discharge for the time period specified therein.
- (B) The control authority may require other users to obtain FOG permits as necessary to carry out the purposes of this article.
- (C) Any violation of the terms and conditions of a FOG permit shall be deemed a violation of this article and subjects the permitted sewer user to the sanctions set out in this article. Obtaining a FOG permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law. (Ord. 2367, passed 11-12-24)

51.162~~12~~ FOG PERMITTING: EXISTING CONNECTIONS.

Any sewer user required to obtain a FOG permit who was discharging wastewater into the PTW prior to the effective date of the ordinance codified in this article and who wishes to continue such discharges in the future, shall, within 60 days after said date, apply to the control authority for a FOG permit in accordance with § 51.114~~164~~, and shall not cause or allow discharges to the PTW to continue after 150 days of the effective date of the ordinance codified in this article, except in accordance with a FOG permit issued by the control authority. (Ord. 2367, passed 11-12-24)

51.163~~13~~ FOG PERMITTING: NEW CONNECTIONS.

Any sewer user required to obtain a FOG permit who proposes to begin or recommence discharging into the PTW must obtain such permit prior to beginning or recommencing such discharge. An application for FOG permit, in accordance with § 51.114~~164~~, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence. (Ord. 2367, passed 11-12-24)

51.164~~14~~ FOG PERMIT APPLICATION CONTENTS.

- (A) All sewer users required to obtain a FOG permit must submit a permit application. The control authority may require sewer users to submit all or some of the following information as part of a permit application:
 - (1) Identifying information.
 - (a) The name and address of the facility, including the name of the operator and the owner.
 - (b) Contact information, description of activities, facilities, and FOG production processes on the premises.
 - (2) Description of operations/facilities.
 - (a) A brief description of the type of FSE/FE, size of location, available seating, major equipment used for food preparation and anticipated water usage.

- (b) Number and type of employees, hours of operation, days of operation, and proposed or actual hours of operation.
 - (c) Site, floor, mechanical, and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
- (3) The location, number, and size of all grease interceptors and other pretreatment equipment.
 - (4) Information regarding proposed grease haulers and/or proposed grease disposal methods and locations.
 - (5) Any other information as may be deemed necessary by the control authority to evaluate the permit application. (Ord. 2367, passed 11-12-24)

51.165~~15~~ APPLICATION SIGNATORIES AND CERTIFICATIONS.

- (A) All FOG permit applications, sewer user reports, and certification statements must be signed by an authorized representative of the sewer user and contain the certification statement in § 51.124~~174~~.
- (B) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, the new written authorization satisfying the requirements of this article must be submitted to control authority, prior to or together with any reports to be signed by an authorized representative. (Ord. 2367, passed 11-12-24)

51.166~~16~~ FOG PERMIT DECISIONS.

The control authority will evaluate the data furnished by the user and may require additional information. Within 30 days of receipt of a complete permit application, the control authority will determine whether to issue a FOG permit. The control authority may deny any application for a FOG permit. Reasons for denial of a FOG permit may include, but are not limited to, the following: a history of consistent noncompliance with a past FOG permit, an incomplete FOG permit application, the potential introduction of industrial wastewater constituents that have a reasonable potential to cause PTW upset or pass-through, failure to pay the required FOG permit fees or fines, etc. (Ord. 2367, passed 11-12-24)

51.167~~17~~ FOG PERMIT DURATION.

A FOG permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A FOG permit may be issued for a period less than five years, at the discretion of the control authority. Each FOG permit will indicate a specific date upon which it will expire. (Ord. 2367, passed 11-12-24)

51.16818 FOG PERMIT CONTENTS.

A FOG permit shall include such conditions as are deemed reasonably necessary by the control authority to prevent pass-through or interference and protect against damage or blockages in the PTW.

(A) FOG permits must contain:

- (1) A statement that indicates the FOG permit issuance date, expiration date, and effective date;
- (2) A statement that the FOG permit is nontransferable without prior notification and approval of the control authority in accordance with § 51.424171, and provisions for furnishing the new owner or operator with a copy of the existing FOG permit;
- (3) Effluent limits, including BMPs, based on applicable pretreatment standards;
- (4) Self monitoring, sampling, reporting, notification, pretreatment device maintenance, and record keeping requirements. These requirements shall include an identification of BMPs (or pollutants, if applicable) to be monitored, sampling location, sampling frequency, sample type, and pretreatment device maintenance frequency based on federal, state, and local law.
- (5) A statement of applicable civil and criminal penalties for violation of the FOG permit or other applicable federal, state, or local laws, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(B) FOG permits may contain, but need not be limited to, the following conditions:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) Requirements for the installation of pretreatment technology, such as grease interceptors or other applicable appurtenances;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including BMPs necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- (4) Development and implementation of waste minimization plans to reduce the amount of FOG or other pollutants discharged to the PTW;
- (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the PTW;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
- (7) A statement that compliance with the FOG permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment

standards, including those that become effective during the term of the FOG permit; and

- (8) Other conditions as deemed appropriate by the control authority to ensure compliance with this article, and state and federal laws, rules, and regulations. (Ord. 2367, passed 11-12-24)

51.16919 FOG PERMIT APPEALS.

The permittee may petition the control authority to reconsider the terms of a FOG permit within 30 days of notice of its issuance.

- (A) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (B) In its petition, the appealing party must indicate the FOG permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the FOG permit.
- (C) The effectiveness of the FOG permit shall not be stayed pending the appeal.
- (D) If the control authority fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a FOG permit, not to issue a FOG permit, or not to modify a FOG permit shall be considered final administrative actions for purposes of judicial review.
- (E) Aggrieved parties seeking judicial review of the final administrative FOG permit decision must do so by filing a writ of review to the Umatilla County Circuit Court. (Ord. 2367, passed 11-12-24)

51.17020 PERMIT MODIFICATION.

- (A) The control authority may modify a FOG permit for good cause, including, but not limited to, the following reasons:
 - (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 - (2) To address significant alterations or additions to the sewer user's operation, processes, or wastewater volume or character since the time of the FOG permit issuance;
 - (3) A change in the PTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - (4) Violation of any terms or conditions of the FOG permit;
 - (5) Misrepresentations or failure to fully disclose all relevant facts in the FOG permit application or in any required reporting;
 - (6) To correct typographical or other errors in the FOG permit; or

- (7) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with § 51.~~121~~171. (Ord. 2367, passed 11-12-24)

51.171~~21~~ FOG PERMIT TRANSFER.

FOG permits may be transferred to a new owner or operator only if the permittee gives at least 60 days' advance notice to the control authority and the control authority approves the FOG permit transfer. The notice to the control authority must include a written certification by the new owner or operator which:

- (A) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (B) Identifies the specific date on which the transfer is to occur; and
- (C) Acknowledges full responsibility for complying with the existing FOG permit.

Failure to provide advance notice of a transfer renders the FOG permit void as of the date of facility transfer. (Ord. 2367, passed 11-12-24)

51.172~~22~~ FOG PERMIT REVOCATION.

The control authority may revoke a FOG permit for good cause including, but not limited to, the following reasons:

- (A) Failure to notify the Control Authority of significant changes to the wastewater prior to the changed discharge;
- (B) Failure to provide notification to the control authority of changed conditions pursuant to their FOG permit;
- (C) Misrepresentation or failure to fully disclose all relevant facts in the FOG permit application;
- (D) Falsifying self-monitoring reports and certification statements;
- (E) Tampering with monitoring equipment;
- (F) Refusing to allow the control authority timely access to the facility premises and records;
- (G) Failure to meet effluent limitations;
- (H) Failure to pay fines;
- (I) Failure to pay sewer charges;
- (J) Failure to meet compliance schedules;
- (K) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (L) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

- (M) Violation of any pretreatment standard or requirement, or any terms of the FOG permit or this article.

FOG permits shall be voidable upon cessation of operations or transfer of business ownership. All FOG permits issued to a sewer user are void upon the issuance of a new FOG permit to that sewer user. (Ord. 2367, passed 11-12-24)

51.173~~23~~ FOG PERMIT REISSUANCE.

A sewer user with an expiring FOG permit shall apply for a FOG permit reissuance by submitting a complete permit application, in accordance with § 51.114~~164~~, a minimum of 90 days prior to the expiration of the sewer user's existing FOG permit. (Ord. 2367, passed 11-12-24)

51.174~~24~~ CERTIFICATION STATEMENTS.

- (A) Certification of permit applications and sewer user reports. The following certification statement is required to be signed and submitted by sewer users submitting permit applications in accordance with § 51.115~~165~~; sewer users submitting periodic compliance reports required by their FOG permit; and sewer users submitting permit appeals in accordance with § 51.119~~169~~. The following certification statement must be signed by an authorized representative of the sewer user:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

PROGRAM ADMINISTRATION

51.175~~25~~ POWER AND AUTHORITY OF INSPECTORS.

- (A) The control authority, or designee, shall be permitted to enter all properties during either the control authority's or FSE/FE's normal operating or business hours for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter.
- (B) While performing the necessary work on private properties referred to in subsection (A) of this section, the control authority representative shall observe all safety rules applicable to the premises established by the owner.
- (C) The control authority shall be permitted to enter all private properties through which either the control authority holds a duly negotiated easement or the FE/FSE/sewer user is regulated by the control authority via a FOG permit, for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance, in accordance with § 51.130~~180~~. Such work shall be done in full accordance with the terms of the duly negotiated easement or FOG permit pertaining to the private property involved, including

any requirements that the control authority provide prior notice to the private property owner before entering onto the property that is subject to the easement or FOG permit.

- (D) If the control authority is refused access to the facility, the control authority may pursue all legally available options to gain access including, but not limited to, obtaining search warrants for inspection and sampling purposes. No person shall interfere with, delay, or refuse entrance to such personnel attempting to inspect or enforce upon any facility involved directly or indirectly with the discharge of wastewater to the control authority sewer system. (Ord. 2367, passed 11-12-24)

51.176~~26~~ ENFORCEMENT AUTHORITY.

The control authority may develop BMPs and/or a FOG enforcement response plan to implement the provisions of 40 CFR Parts 403.5(b)(3) and (b)(6). Such BMPs shall be considered local limits and pretreatment standards for the purposes of this article and § 307(d) of the Act. (Ord. 2367, passed 11-12-24)

51.177~~27~~ FOG ABATEMENT PROGRAM CHARGES AND FEES.

The Control Authority's FOG abatement program may include:

- (A) Fees for grease interceptor permits including the cost of processing such applications;
- (B) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing cleaning reports submitted by users;
- (C) Fees for reviewing and responding to accidental discharge and FOG interference in the PTW;
- (D) Fees for filing appeals;
- (E) Fees to recover administrative and legal costs (not included in subsection (B) of this section) associated with the enforcement activity taken by the control authority to address FSE/FE user noncompliance; and
- (F) Other fees as the control authority may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this article and are separate from all other fees, fines, and penalties chargeable by the control authority. (Ord. 2367, passed 11-12-24)

51.178~~28~~ VARIANCE PROCESS.

A facility operator unable to meet the applicable requirements of these rules may request a variance in accordance with the process outlined in § 51.119~~169~~. Alternative methods, interceptors, or schedules may only be adopted with the approval of the Control Authority and must be in compliance with overlapping jurisdictions. A processing fee may apply. Facility operators who violate the terms of an approved variance will be in violation of this article and subject to enforcement. (Ord. 2367, passed 11-12-24)

51.17929 ENFORCEMENT ACTION APPEAL PROCESS.

A user who desires to appeal a decision imposing an administrative fine or other enforcement action must file a written request with the Control Authority for reconsideration of the fine along with full payment of the fine amount within 30 days of being notified of the fine. Upon receipt of the written request for reconsideration, the Control Authority shall conduct a hearing on the matter within 30 days of receiving the request from the user. In the event the user's appeal is successful, the payment for the fine, together with any interest accruing thereto, shall be returned to the user. (Ord. 2367, passed 11-12-24)

ADMINISTRATION AND ENFORCEMENT

51.18030 POWERS AND AUTHORITY OF INSPECTORS.

- (A) The city's duly authorized employees bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this chapter. City employees denied entry may obtain an administrative warrant or a search warrant. The city shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers of waterways or facilities for waste treatment.
- (B) While performing the necessary work on private properties, as defined in this chapter, the city or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the property owner or person in charge of the property; and such person shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as may be caused by negligence or failure of the company to maintain safe conditions and within the limits of the Oregon Tort Claims Act.
- (C) The city or other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter onto any city or publicly owned easement for the purposes of but not limited to inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the easement pertaining to the private property involved.

51.181~~31~~ NOTICE OF VIOLATION.

Any person found to be violating any provision of ~~except provisions on protection from damage, and except for the provisions of §§ 51.150.090 through 51.179.097, or as otherwise provided in this chapter,~~ may be served with a citation or complaint as provided in Chapter 136 or 138 or by law. Nothing in this section precludes the city from first issuing a notice and opportunity to resolve the violation or limits the authority of the city to declare the violation to be a nuisance or to pursue any other remedy provided in this chapter or provided by law.

51.182~~32~~ LIABILITY FOR DAMAGE.

Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned the city by reason of the violation.

51.183~~33~~ DISCONTINUANCE OF SERVICE FOR VIOLATION.

The city may discontinue service for failure to observe all terms of this chapter. Any costs incurred for discontinuation will be paid by the user in accord with this chapter.

51.184~~34~~ AUTHORITY TO ADOPT RULES.

The City Council may, by resolution, adopt such rules and regulations as the Council determines reasonable and necessary to implement or supplement this chapter. Except as provided otherwise in such rules and regulations, violation of a rule or regulation shall constitute a violation of this chapter.

51.185 ADMINISTRATIVE FINES.

- (A) When the control authority finds that a user has violated, or continues to violate, any provision of this ordinance, a FOG permit, or order issued hereunder, or any other standard or requirement, the control authority may fine such user in an amount not to exceed \$10,000. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- (B) Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed an additional penalty of 1.5 percent of the unpaid balance, and interest shall accrue thereafter at a rate of 1 percent per month. A lien against the user's property shall be sought for unpaid charges, fines, and penalties.
- (C) Users desiring to dispute such fines must file a written request for the control authority to reconsider the fine along with full payment of the fine amount within 15 days of being notified of the fine. Where a request has merit, the control authority may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The control authority may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- (D) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

51.999 PENALTY.

- (A) Any person found to have violated the provisions of §§ 51.002 through 51.076 or a permit, approval or rules adopted thereunder, including any violation beyond the time limit granted for compliance by the city, if any, provided in § 51.131, commits a Class B violation.
- (B) Any person found to have violated any provision of §§ 51.090 through 51.149 ~~097~~, permits and orders issued thereunder, or any other pretreatment requirement commits a Class B violation. Fines shall be assessed on a per violation, per day basis. Fines assessed may take into consideration the magnitude of the violation and the willingness of the IU to return to compliance. In the case of monthly or other long-term average discharge limits, fines may be assessed for each business day during the period of violation.
- (1) Fines may be collected by adding fine amounts to the user's next scheduled sewer service charge and the city shall have other collection remedies as may be available for fines.
 - (2) Unpaid charges, fines, and penalties together with interest therefrom shall constitute a lien against the individual user's property and may constitute cause for revocation of an IU's discharge permit. If an IU fails to file a timely and complete request to review enforcement action, the user shall be deemed to have consented to pay the fine assessed and to comply with all other terms of the enforcement action.
- (C) Any IU found to have committed the same or substantially the same violation within one year commits a Class A violation. Fines shall be assessed on a per violation, per day basis. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each business day during the period of this violation.
- (D) Where appropriate, the city may request that the review authority or court impose mitigation projects in lieu of the payment of civil penalties where the project provides a valuable service to the city and the IU's expense in undertaking the project is at least 100 percent of the penalty.
- (E) Any person found to have violated any provision of §§ 51.150 ~~100~~ through 51.179 ~~129~~, permits and orders issued thereunder, or any other requirement commits a Class B violation. Fines shall be assessed on a per violation, per day basis. Fines assessed may take into consideration the magnitude of the violation and the willingness of the user to return to compliance. In the case of monthly or other long-term average discharge limits, fines may be assessed for each business day during the period of violation.
- (1) Fines may be collected by adding fine amounts to the user's next scheduled sewer service charge and the city shall have other collection remedies as may be available for fines.
 - (2) Unpaid charges, fines, and penalties together with interest therefrom shall constitute a lien against the individual user's property and may constitute cause for revocation of a user's permit. If a user fails to file a timely and complete request to review enforcement action, the user shall be deemed to have consented to pay the fine assessed and to comply with all other terms of the enforcement action.

- (F) Any user found to have committed the same or substantially the same violation under §§ 51.150 through 51.179 within one year commits a Class A violation. Fines shall be assessed on a per violation, per day basis. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each business day during the period of this violation.
- (G) Nothing in this section precludes the city from declaring the violation to be a public nuisance, pursuing injunctive or other relief, bringing an action for damages or pursuing any other remedy provided by law.