

**ROGUE VALLEY SEWER SERVICES  
JACKSON COUNTY, OREGON**

**ORDINANCE NO. 21-02**

**AN ORDINANCE TO AMEND TITLE 7 OF THE ROGUE VALLEY SEWER SERVICES  
CODE**

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WHEREAS, Rogue Valley Sewer Services first codified its major resolutions and ordinances in 2005, and

WHEREAS, the code has been amended by ordinance from time to time, and

WHEREAS, Title 7 of the Code addresses industrial waste pretreatment and is intended to mirror Chapter 11 of the Medford Municipal Code, and

WHEREAS, the City of Medford has recently made changes to Chapter 11 of its municipal code,

NOW BE IT ORDAINED that Title 7 of the Rogue Valley Sewer Services Code are hereby repealed and replaced in their entirety by new Title 7, attached and made a part of this ordinance.

BE IT FURTHER ORDAINED, that the Ordinances and Resolutions set forth in the code are an attempt to incorporate all prior ordinances in a more organized manner.

To the extent that any prior ordinances or resolutions which are now in effect, and have in whole or in part, been inadvertently excluded from the code, said ordinances or resolutions or portions of such not included shall remain valid and enforceable and shall not be repealed by implication.

AND, BE IT FURTHER ORDAINED that future changes to the Rogue Valley Sewer Services Code may be made by ordinance of the Board.

ADOPTED BY THE Board of Directors of Rogue Valley Sewer Services at its Regular Meeting held August 19, 2020

ROGUE VALLEY SEWER SERVICES

  
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Kay Harrison, Chair  
Board of Directors

COUNTERSIGNED:

  
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Carl Tappert, Manager

First Reading: April 21, 2021

Second Reading and Public Hearing: May 19, 2021

Effective Date: June 16, 2021

## Chapter 7.05 General Provisions

### Sections:

7.05.010	General Provisions
7.05.020	Administration
7.05.030	Connection approval required
7.05.040	Sanitary sewer/storm drain
7.05.050	Definitions of terms commonly used
7.05.060	Abbreviations

### **7.05.010 General Provisions.**

1. This ordinance sets forth uniform requirements for Users with discharges of pollutants from nondomestic sources into the Publicly Owned Treatment Works (POTW) and enables compliance with all applicable State and Federal laws, including the Clean Water Act, the General Pretreatment Regulations (40 CFR Part 403), and Oregon Administrative Rules (OAR) Chapter 340. The objectives of this ordinance are:
  - (a) To prevent the introduction of pollutants into the POTW that may interfere with or damage the operation of the POTW;
  - (b) To prevent the introduction of pollutants into the POTW which may pass through the treatment system, inadequately treated, into the Rogue River or its tributaries or the atmosphere or otherwise be incompatible with the POTW;
  - (c) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level that allows its beneficial use;
  - (d) To protect both municipal personnel who may come into contact with sewage, sludge and effluent in the course of their employment, as well as protecting the general public;
  - (e) To preserve the hydraulic capacity of the POTW;
  - (f) To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;
  - (g) To provide for equitable distribution of the cost of operation, maintenance and improvements of the POTW; and to provide for the efficient use of the POTW for the benefit of the user;
  - (h) To ensure the Regional Water Reclamation Facility complies with its NPDES permit conditions, sludge use and disposal requirements and any other Federal or State laws that the POTW is subject.
2. This ordinance provides for the regulation of all users who discharge non-domestic waste into the POTW. This ordinance authorizes the issuance of Control Mechanisms to industrial users; authorizes enforcement of general requirements for all users; authorizes monitoring and enforcement activities, requires user reporting; and provides for the setting of fees for the equitable distribution of costs.
3. The WRD Manager shall initiate contact with RVSS regarding any restrictive action within their jurisdiction. In an emergency, contact shall be initiated with RVSS at the earliest practical time.

#### **7.05.020 Administration.**

Except as otherwise provided herein, the WRD Manager shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the WRD Manager may be delegated by the WRD Manager to a duly authorized representative. This ordinance is gender neutral and the masculine gender shall include the feminine and vice versa. Shall is mandatory; may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

#### **7.05.030 Connection Approval Required.**

No industrial waste connection shall be made to the sanitary sewer system without prior approval of the RVSS Manager/WRD Manager. All conditions allowing industrial waste discharge to the sewer system defined in any industrial waste discharge permit shall be satisfied prior to commencing discharge.

#### **7.05.040 Sanitary Sewer/Storm Drain.**

It is unlawful to discharge, permit the discharge, or permit or allow a connection that may result in the discharge of sewage or industrial waste into a storm drain.

#### **7.05.050 Definitions of Terms Commonly Used.**

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance shall have the meanings hereinafter set forth in this section, whether appearing in capital or lower case form.

- 1. Act or "the Act".** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.
- 2. Applicable Pretreatment Standards.** The most stringent regulation for any specified pollutant regulated by degree or amount by this ordinance, local limits, State of Oregon Pretreatment Standards, or National Categorical Pretreatment Standards.
- 3. Approval Authority.** The Oregon Department of Environmental Quality (DEQ).
- 4. Authorized Representative of the industrial user.**
  - (a) If the industrial user is a corporation, authorized representative shall mean:
    - i. The president, secretary, 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
    - ii. 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 assure 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 Control Mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (b) If the industrial user is a partnership, association, or sole proprietorship, an authorized representative shall mean a general partner or the proprietor.
  - (c) 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, or their designee.
  - (d) The individuals described in paragraphs a-c above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the WRD Manager.
- 5. Biochemical Oxygen Demand (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at a temperature of 20 degrees Centigrade, expressed as a concentration (milligrams per liter mg/L).
- 6. Best Management Practices (BMP).** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 7.10.010 [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.
- 7. Categorical Pretreatment Standard or Categorical Standard.** Any regulation containing pollutant discharge limits promulgated by the USEPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to a specific category of industrial users and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471, incorporated herein by reference.
- 8. Categorical Industrial User.** An Industrial User subject to a categorical pretreatment standard or categorical standard.
- 9. City.** The City of Medford.
- 10. Control Authority.** The City of Medford, Regional Water Reclamation Facility.
- 11. Control Mechanism:** A document issued to an Industrial User outlining certain discharge requirements and limitations, including, but not limited to: Industrial Waste Discharge Permits, discharge authorization letters and Non-Discharging Categorical Industrial User Permits.
- 12. Commercial Building.** All buildings or premises used for any purpose other than a dwelling

unit.

- 13. Compatible Pollutant.** The words "compatible pollutant" shall mean biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants that the treatment plant is designed to treat.
- 14. 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.
- 15. Cooling Water.** The water discharged from any use such as air conditioning, cooling or refrigeration, to which the only pollutant added is heat.
- 16. Daily Maximum.** The maximum of any effluent samples for a pollutant collected during a calendar day.
- 17. 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.
- 18. Department of Environmental Quality or DEQ.** The Oregon Department of Environmental Quality or where appropriate, the term may also be used as a designation for the Director of the Department or other duly authorized official of the Department.
- 19. Direct Discharge.** The discharge of treated or untreated wastewater directly to the waters of the State of Oregon.
- 20. Environmental Protection Agency or U. S. EPA.** The U. S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the Director of the Region 10 Water Division or other duly authorized official of said agency.
- 21. Existing Source.** Any source of discharge that is not a "New Source."
- 22. Extra Strength Industrial Waste Discharge.** Extra Strength Industrial Waste Discharge shall be defined as industrial, commercial, or hospital industrial wastes discharged into the sewer system containing a total of more than 60 pounds of Biochemical Oxygen Demand, or Suspended Solids in any one day and having an average strength in excess of 300 ppm of Biochemical Oxygen Demand, or Suspended Solids.

- 23. Garbage.** Solid wastes originating from the preparation, cooking and dispensing of foods, and from the handling, storage, and sale of produce.
- 24. 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 fifteen (15) minutes.
- 25. Holding Tank Waste.** Any waste, which has been stored in holding tanks, chemical toilets, campers, trailers, septic tanks, or vacuum-pump tank trucks.
- 26. Indirect Discharge or Discharge.** The introduction of pollutants into the POTW from any industrial user as defined in these Regulations and industrial users regulated under Section 307(b), (c) or (d) of the Act (33 U.S.C. 1317), including mobile sources and holding tank waste from a non-domestic user.
- 27. Industrial User or "User".** A source of indirect discharge or any other industrial or commercial facility, person, or business that has a sewer connection to the POTW, whether or not the user discharges non-domestic wastewater.
- 28. Industrial Pretreatment Program.** The program approved by the Department of Environmental Quality regulated through the National Pollution Discharge Elimination System Waste Discharge Permits, and administered by the Regional Water Reclamation Facility for the purpose of complying with federal, state, and local regulations governing industrial waste discharge to the POTW.
- 29. Industrial Waste Discharge Permit.** A Control Mechanism allowing the discharge of industrial wastes into the POTW issued under the authority of this ordinance and which prescribes certain discharge requirements and limitations.
- 30. Interceptor Sewer.** A sanitary sewer, which receives the flow from a number of trunk, main, or lateral sewers and transports it to a treatment plant or other point of disposal. Generally, an interceptor sewer collects the flow from a number of trunks, mains, or laterals that would otherwise discharge to a natural outlet.
- 31. 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.
- 32. Interference.** A discharge which, alone or in conjunction with a discharge or discharges from other sources both:
- (a) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
  - (b) Therefore is a cause of a violation of any requirements of the City's NPDES permit (including

an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory provisions and regulations or permits issued hereunder (or more stringent Federal, State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as 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.

- 33. Leachate.** A solution or product obtained when a liquid percolates through a material and results in dissolving and transporting of soluble materials.
- 34. Local Limit.** A technically based pollutant limit specific to the ability of the treatment plant to treat the pollutant so it does not upset or inhibit the treatment process, pass through to the Rogue River, or limit or inhibit the beneficial use of sludge and treated effluent.
- 35. Main.** A sanitary sewer which will receive the flow from one or more laterals and which will discharge into a trunk or interceptor sewer.
- 36. "May"** is permissive.
- 37. 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.
- 38. Monthly Average.** The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.
- 39. 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.
- 40. National Pollutant Discharge Elimination System (NPDES) Permit.** A permit issued by the Oregon Department of Environmental Quality, which prescribes operating and effluent limitations relating to the treatment of sewage.
- 41. National Pretreatment Standard.** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act, which applies to industrial users. This term includes prohibited discharge limits established pursuant to 40 CFR 403.5.

**42. New Source:**

- (a) The term "New Source" means 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 such source if such standards are thereafter promulgated in accordance with that section, provided that:
  - (i) The building, structure, facility or installation is constructed at a site at which no other source is located; or
  - (ii) The building, structure, facility or installation completely replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (iii) 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.
- (b) 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 paragraphs (a)(ii), or (a)(iii) of this section but otherwise alters, replaces, or adds to existing process or production equipment.
- (c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
  - (i) 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
  - (ii) 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.

**43. Parties.** Those entities who own local sewerage facilities served by the RWRP. Parties must also be signatories to the Regional Agreement, and serve on the Regional Committee and the Technical Advisory Group (TAG).

**44. Pass Through.** A discharge which exits the POTW 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).



- 45. Person.** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context. This definition includes all Federal, State, or local governmental entities.
- 46. pH.** The logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed in standard units. A measure of the acidity or alkalinity of a solution.
- 47. 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, toxicity, or odor).
- 48. Pollution.** The man-made or man-induced alteration of chemical, physical, biological, and radiological integrity of water.
- 49. Pretreatment.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration may be obtained by physical, chemical, or biological process, or process changes by other means, except intentional dilution as a partial or complete substitute for adequate treatment.
- 50. Pretreatment Requirement.** Any substantive or procedural requirement, related to pretreatment, other than categorical standards and prohibited discharge standards, imposed on an industrial user.
- 51. Pretreatment Standards or Standards.** Pretreatment Standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- 52. Prohibited Pollutant.** Any pollutant contained in the discharge to the POTW, which is prohibited in its entirety or regulated, by degree or amount by this ordinance.
- 53. Prohibited Discharge Standards or Prohibited Discharges.** Absolute prohibitions against the discharge of certain types or characteristics of wastewater as established by EPA, DEQ, the WRD Manager.
- 54. Publicly Owned Treatment Works or POTW.** A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292). 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.

- 55. Regional Committee.** The Regional Committee is made up of two representatives of each party that collects and discharges wastewater to the Regional Water Reclamation Facility. The primary function of this committee is to review and approve the schedule of charges for wastewater treatment, and to resolve appeals as provided in this ordinance, conduct informational and fact-gathering hearings, both to and from users, staff and the Technical Advisory Group, and such other duties as may be assigned under the terms of this Ordinance, the Regional Sewer Agreement, and any subsequent amendments to that agreement.
- 56. Regional Sewer Agreement.** The interjurisdictional agreement that provides for the operation, maintenance and improvement of the Regional Water Reclamation Facility and the Interceptor System. The agreement defines the jurisdictional responsibilities requiring the RWRF to implement and enforce the Industrial Pretreatment Program.
- 57. Regional Water Reclamation Facility (RWRF).** That portion of the POTW designed to provide treatment of sewage and industrial waste. The wastewater treatment plant and duly authorized representatives.
- 58. Rogue Valley Sewer Services (RVSS).** A party as defined in the Regional Sewer Agreement.
- 59. RVSS Manager.** The legal representative for Rogue Valley Sewer Services.
- 60. RVSS Manager/WRDManager.** This notation indicates joint action by the RVSS Manager and the WRD Manager. Both will be cosignatories to the action. The RVSS Manager is considered the legal representative for RVSS. The WRD Manager is the responsible authority in administering the Industrial Pretreatment Program.
- 61. Sanitary Sewer.** A pipe or conduit designed or used to transport sewage and to which storm water, surface and ground waters are not admitted intentionally.
- 62. Sewage.** Human excrement and gray water (household showers, dishwashing operations, etc.).
- 63. Sewer Lateral.** A Sanitary Sewer that will receive the flow from a service connection and discharge in to a main, trunk, or interceptor sewer.
- 64. Sewer System.** All components of the POTW used to collect and treat sewage and industrial wastewater within the boundaries of the contributors to the Regional Water Reclamation Facility.
- 65. "Shall"** is mandatory.

**66. Significant Industrial User.**

(a) Except as provided in paragraph b below, the term significant industrial user shall mean:

- (i) Industrial users subject to categorical pretreatment standards, and
- (ii) Any other industrial users that:
  - (1) Discharges an average of 25,000 GPD or more of process wastewater,
  - (2) Contributes a process waste stream which makes up five (5%) percent or more of the average dry weather hydraulic or organic capacity of the treatment plant or,
  - (3) Is designated as significant by the WRD Manager 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.

(b) Upon a finding that an industrial user meeting the criteria in paragraph (a) (ii) of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the WRD Manager may in accordance with 40 CFR 403.8 (f) (6), determine that such industrial user is not a significant industrial user.

**67. Slug Load or Slug Discharge.** Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 7.10.010 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 POTW's regulations, local limits or permit conditions.

**68. Standard Methods.** The examination and analytical procedures set forth in Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

**69. Storm Drain.** A conduit designed or used exclusively to transport stormwater.

**70. Storm Water.** Any flow occurring during or following any form of natural precipitation and resulting thereof, including snowmelt.

**71. Suspended Solids or Total Suspended Solids (TSS).** Solids that either float on the surface, or are in suspension in water, wastewater, or other liquids; and which are removable by laboratory filtering in accordance with procedures set forth in Standard Methods.

**72. Technical Advisory Group (TAG).** The Technical Advisory Group is comprised of the managers and administrators, or other representatives, of the parties. The primary function of this committee is to make recommendations to the Regional Committee on the following matters: technical information, rates, system development charges, and other matters requested by the Regional Committee.

- 73. Toxic Pollutants.** One of the pollutants or combination of those pollutants listed as toxic in regulations promulgated by the Environmental Protection Agency under the provision of Section 307 (33 U.S.C. 1317) of the Act.
- 74. Treatment Plant.** That portion of the POTW designed to provide treatment of sewage and industrial waste. The Regional Water Reclamation Facility.
- 75. Treatment Plant Effluent.** Any discharge of pollutants from the wastewater treatment plant into waters of the state. Includes reclaimed, reused, or recycled wastewater that has been treated.
- 76. Upset.** An exceptional incident in which a user unintentionally and temporarily is in a state of noncompliance with the discharge requirements set forth in this ordinance or existing permit due to factors beyond the reasonable control of the user, and excluding noncompliance caused by operation error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- 77. Wastewater.** The liquid and water-carried industrial wastes, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which is contributed to the POTW.
- 78. WRD Manager.** The City of Medford Water Reclamation Division (WRD) Manager or duly designated representative with authority to administer the Industrial Pretreatment Program and respond to the requirements of regulatory agencies with respect to the National Pollutant Discharge Elimination System (NPDES) permit held by the Regional Water Reclamation Facility.

#### **7.05.060 Abbreviations.**

The following abbreviations 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
- DEQ - Oregon Department of Environmental Quality
- EPA - U. S. Environmental Protection Agency
- gpd - Gallons per day
- IU - Industrial User
- l - Liter
- mg - Milligrams
- mg/l - Milligrams per Liter
- NDCIU - Non-Discharging Categorical Industrial User
- NSIU - Non-Significant Industrial User

- NPDES - National Pollutant Discharge Elimination System
- OAR - Oregon Administrative Rules
- O & M - Operation and Maintenance
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- RWRF - Regional Water Reclamation Facility
- SIC - Standard Industrial Classification
- SIU - Significant Industrial User
- SNC - Significant Non-Compliance
- SWDA - Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.
- USC - United States Code
- TSS - Total Suspended Solids
- WRD - Water Reclamation Division

## **Chapter 7.10**

### **PROHIBITIONS AND STANDARDS**

#### **Sections:**

- 7.10.010 Prohibited discharge standards**
- 7.10.020 National categorical pretreatment standards**
- 7.10.030 State pretreatment standards**
- 7.10.040 Local limits**
- 7.10.050 Denial, termination, or limitation of discharge**
- 7.10.060 Best management practices**
- 7.10.070 Dilution prohibition**
- 7.10.080 Right to revision**
- 7.10.090 Tenant responsibility**

#### **7.10.010 Prohibited Discharge Standards**

##### A. General Prohibitions

Except as hereinafter provided, no user shall discharge any wastewater containing pollutants in sufficient quantity (flow or concentration), either singly or by interaction with other pollutants, to pass through or interfere with the POTW, to injure or interfere with any wastewater treatment process; to interfere with the use of or disposal of treatment plant sludge; to constitute a hazard to humans or animals; to create a toxic effect in the receiving waters of the sewer system; to exceed the limitation set forth in a National Pretreatment Standard; or to exceed a local limit established by the WRD Manager. These general prohibitions apply to all users of the POTW, whether or not they are subject to the categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements.

## B. Specific Prohibitions

No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

1. Any pollutant which may, by themselves or by interaction with other substances, create a fire or explosion hazard, or be injurious in any other way to the sewer system. Included in this prohibition are waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21.
2. Any wastes, wastewaters or substances having a pH less than 5.0 or greater than or equal to 12.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the sewer system.
3. Solid or viscous substances in quantities or of a size capable of causing obstruction to the flow in the POTW or other interference with the operation of the POTW. Such substances include, but are not limited to: fats, grease, oil (whether or not emulsified), garbage, mud, sand, spent grains, spent hops, wood, metal, shavings, stone or marble dust, glass or solids with particles greater than one-quarter inch (1/4") in any dimension.
4. Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollution concentration, which either singly or by interaction with other pollutants may cause interference with the POTW.
5. Any 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 collection system greater than 140°F, or which will cause the wastewater treatment plant influent to exceed 104 °F. The WRD Manager may require thermal loading reduction from industrial users with the potential for thermal impact on the sanitary sewer system.
6. Any pollutant that results in the presence of toxic gases, vapors or fumes within the sewer system in a quantity that may cause worker health and safety problems.
7. Any waters or wastes containing sludge's or screenings from tank bottom contents, industrial sump bottom contents, grease or oil trap wastes, plating or metal finishing wastes.
8. Any noxious or malodorous liquids, gases, solids, or other wastewaters, which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for maintenance and repair.
9. Any fat, oils or greases, including but not limited to petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that may cause interference or pass through.

- 10.** Any substance that may cause the treatment plant effluent or any other residues, sludge's, or scum to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the system cause the Regional Water Reclamation Facility to be in noncompliance with sludge use or disposal regulations, or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or other State requirements applicable to the sludge use and disposal practices being used by the Regional Water Reclamation Facility.
- 11.** Any wastewater containing any radioactive waste or isotopes except as specifically approved by the WRD Manager in compliance with applicable State or Federal regulations.
- 12.** Materials which exert or cause:
  - (a) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - (b) Unusual chlorine demand or concentrations in such quantities as to constitute a significant load on the treatment plant, or that violate worker health and safety limits.
- 13.** Any trucked or hauled pollutants, including holding tank wastes, except at discharge points designated by the WRD Manager.
- 14.** Any medical wastes including, but not limited to recognizable portions of the human or animal anatomy.
- 15.** Any wastes containing detergents, surface-active agents, or other substances that may cause excessive foaming in the POTW.
- 16.** Storm water, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, cooling water and unpolluted industrial wastewater unless specifically authorized by the WRD Manager.
- 17.** Any material identified as hazardous waste according to 40 CFR Part 261.
- 18.** Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 5 percent (5%) or any single reading over 10 percent (10%) of the Lower Explosive Limit of the meter.
- 19.** Any substance with objectionable color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

Pollutants, substances or Wastewater prohibited by this section shall not be processed or stored in

such a manner that they could be discharged to the POTW.

### **7.10.020 National Categorical Pretreatment Standards**

Users must comply with the Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471.

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the WRD Manager may impose equivalent concentration or mass limits in accordance with Section 7.10.020(D) and 7.10.020(E).
- B. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the WRD Manager may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.
- C. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same Standard, the WRD Manager shall impose an alternate limit in accordance with 40 CFR 403.6(e).
- D. When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that the City convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the WRD Manager. The City may establish equivalent mass limits only if the industrial user meets all the conditions set forth in Sections 7.10.020(D)(1)(a) through 7.10.020(D)(1)(e) below.

(1) To be eligible for equivalent mass limits, the Industrial User must:

- a. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;
- b. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute for treatment;
- c. Provide sufficient information to establish the facility's actual average daily flow rate for all waste streams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
- d. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and
- e. Have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.



- (2) An Industrial User subject to equivalent mass limits must:
- a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
  - b. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
  - c. Continue to record the facility's production rates and notify the WRD Manager whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph 7.10.020(D)(1)(c). Upon notification of a revised production rate, the WRD Manager will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
  - d. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraphs 7.10.020(D)(1)(a) so long as it discharges under an equivalent mass limit.
- (3) When developing equivalent mass limits, the WRD Manager:
- a. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the industrial user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;
  - b. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
  - c. May retain the same equivalent mass limit in subsequent individual wastewater discharge permit terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 7.10.070. The Industrial User must also be in compliance with Section 7.35.240 regarding the prohibition of bypass.

E. The WRD Manager may convert the mass limits of the categorical pretreatment standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the WRD Manager.

F. Once included in its permit, the industrial user must comply with the equivalent limitations developed in this Section 7.10.020 in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

G. Many categorical pretreatment standards specify one limit for calculating maximum daily

discharge limitations and a second limit for calculating maximum monthly average limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

H. Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the WRD Manager within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the WRD Manager of such 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.

#### **7.10.030 State Pretreatment Standards.**

State requirements and limitations on discharges to the POTW shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this or any other applicable ordinance.

#### **7.10.040 Local Limits.**

The WRD Manager is authorized to establish and revise local limits pursuant to 40 CFR 403.5(c). The pollutant limits (local limits) will be established to protect against pass-through and interference. No significant industrial user (SIU) shall discharge wastewater containing in excess of the limits established by the WRD Manager. The local limit shall have precedence if it is more stringent than the Categorical Pretreatment Standard for the Industrial User, and shall be enforced as the standard at the point of discharge to the Sewer System. The local limit shall be identified in the Industrial Waste Discharge Permit of the industrial user discharging the pollutant.

The local limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for the total metal unless indicated otherwise. The WRD Manager may impose mass limitations in addition to concentration based limitations.

All new domestic wastewaters from restrooms, showers, drinking fountains, etc., unless specifically included as part of a categorical pretreatment standard, shall be kept separate from all industrial wastewaters until the industrial wastewaters have passed through a required pretreatment system and the industrial user's monitoring facility. When directed to do so by the WRD Manager, any industrial user may be required to separate existing domestic waste streams. The WRD Manager shall endeavor to keep the Regional Committee apprised of the status of local limits and pollutant levels.

#### **7.10.050 Denial, Termination, or Limitation of Discharge.**

The WRD Manager or RVSS Manager may deny, condition, or terminate the discharge of industrial wastes to the sewer system where such discharges do not meet the requirements of this Ordinance or other applicable pretreatment standards.

Notwithstanding prior acceptance of industrial wastes into the treatment plant, if the WRD Manager or RVSS Manager finds that an industrial waste from a particular commercial or industrial occupancy or a class of wastes from similar commercial or industrial occupancies constitute a nuisance or may create a hazard to the collection system or treatment plant or receiving waters, or have an adverse effect on reclaimed wastewater, then the WRD Manager or RVSS Manager may limit the characteristics or volume of such wastes, or may terminate the acceptance, or may deny acceptance. Notice of the limitation, termination, or denial, shall be given to the industrial user in the manner as in a notice of violation. It is unlawful for any person to discharge or permit the discharge of industrial wastes in violation of this notice.

**7.10.060 Best Management Practices.**

The WRD Manager or RVSS Manager may require commercial and/or industrial users to implement best management practices to restrict and/or condition discharges to the sanitary sewer system to meet the requirements of this ordinance or other applicable pretreatment standards or requirements.

**7.10.070 Dilution Prohibition.**

No user shall intentionally increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Pretreatment Standards, or in any other pollutant limitation developed by this ordinance or the State.

It is understood that an industry may vary water usage in the ordinary course of processing. This section is not intended to interfere with this flexibility.

**7.10.080 Right to Revision.**

The Regional Water Reclamation Facility reserves the right to establish, by ordinance or in wastewater permits, more stringent limitations or requirements for discharges to the POTW, if deemed necessary to comply with the objectives presented in this Ordinance.

**7.10.090 Tenant Responsibility.**

Any person who shall occupy the industrial user's premises as a tenant under any rental or lease agreement shall be jointly and severally responsible for compliance with the provisions of this Ordinance in the same manner as the Owner.

**Chapter 7.15  
Spill Prevention/Slug Control Plan Provisions**

**Sections:**

**7.15.010 Spill Prevention/Slug Control**

**7.15.020 Spill/Slug Reporting**

**7.15.010 Spill Prevention/Slug Control**

Each user shall provide protection from accidental spill and slug discharges of prohibited materials

or other substances regulated by this ordinance, which may interfere with the POTW. Facilities, equipment, materials, etc., to prevent accidental spills and slug discharges of prohibited materials shall be provided and maintained at the owner or user's own cost and expense.

Direct or indirect connections or entry points which could allow spills or uncontrolled discharges of prohibited or restricted substances to enter the sewer system shall be eliminated, labeled, or controlled so as to prevent the entry of wastes in violation of this ordinance. The RVSS Manager and/or WRD Manager may require the industrial user to install or modify equipment or make other changes necessary to prevent such discharges as a condition of issuance of a control mechanism or as a condition of continued discharge into the sewer system. A schedule of compliance shall be established by the RVSS Manager or WRD Manager which requires completion of the required actions within the shortest reasonable period of time. Violation of the schedule without an extension of time granted by the RVSS Manager or WRD Manager is a violation of this ordinance.

Industrial users having a history of, or possessing the potential for accidental spills and/or slug discharges that could upset the treatment plant or cause a violation of the treatment plant's NPDES permit shall submit and implement a Spill Prevention/Slug Control Program or take such other action that may be necessary to control Slug Discharges. A Spill Prevention/Slug Control Plan shall be submitted to the WRD Manager within ninety (90) days of notification of requirement by the WRD Manager.

Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this ordinance, or all other laws and regulations governing the use, storage, and transportation of hazardous substances. The plan shall include at least the following elements and shall be available for inspection at the facility during normal business hours.

1. A description of discharge practices, including nonroutine batch discharges;
2. A description of process chemicals and stored chemicals;
3. Provisions for immediate notification of the WRD Manager of any accidental and/or slug discharge, with follow-up written notification within 5 days per 7.15.020;
4. A description of the potential points of entry into the sewer system;
5. A description of the measures or other actions to be taken to prevent entry at the described points before a spill occurs;
6. Measures to be taken in the event of a spill of prohibited or restricted materials to contain them;
7. A description of employee training in the prevention and control of spills.

#### **7.15.020 Spill/Slug Reporting**

In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the WRD Manager of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions. Failure to comply shall cause the user to be in violation of this ordinance.

1. Notice to Employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of an upset or accidental discharge. Employers shall insure that all employees who may cause or allow such a dangerous discharge to occur are advised of the emergency notification procedure.
2. Written Notice. Within five (5) days following an accidental discharge, the user shall submit to the WRD Manager a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed by this ordinance or other applicable law.

## **Chapter 7.20 Permits**

### **Sections:**

7.20.010	Wastewater survey
7.20.020	Permit authority
7.20.030	Requirement for a permit
7.20.040	Existing users
7.20.050	Application for an industrial waste discharge permit
7.20.060	Wastewater permit reissuance/renewal
7.20.070	Application information and baseline monitoring report (BMR)
7.20.080	Application signatories and certifications
7.20.090	Issuance of industrial waste discharge permits
7.20.100	Modification of permits
7.20.110	Permit transfer
7.20.120	Trucked and hauled pollutant permits
7.20.130	Wastewater permit revocation

### **7.20.010 Wastewater Survey.**

When requested by the WRD Manager, a user shall submit information on the quantity, nature, and characteristics of their wastewater by completing a wastewater survey. The WRD Manager is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete the survey shall be considered a violation of the ordinance.

### **7.20.020 Permit Authority.**

The WRD Manager shall have the authority to establish control mechanism limitations to the extent necessary to comply with this ordinance as well as the National Pretreatment Standards including current Categorical Pretreatment Standards and waste discharge requirements as promulgated by the U.S. Environmental Protection Agency and the Oregon State Department of Environmental Quality;

to protect the public health and safety; to protect the receiving water quality; to protect the sewer system; to protect the ability to reclaim wastewater; and to comply with all other applicable Federal and State laws.

The WRD Manager may require industrial users to apply for and obtain a permit or other control mechanism to carry out the purposes of these regulations.

#### **7.20.030 Requirement for a Permit.**

It shall be unlawful for a significant industrial user to discharge wastewater into the sanitary sewer system without first applying for and obtaining an industrial waste discharge permit from the WRD Manager. Any violation of the terms and conditions of the industrial waste discharge permit shall be deemed a violation of this ordinance and subjects the industrial user to the sanctions set out in this ordinance. Obtaining an industrial waste discharge permit does not relieve a permittee of its obligation to obtain other permits required by Federal, State, or local law.

The WRD Manager may require other industrial users to obtain wastewater permits as necessary to carry out the purposes of this ordinance.

#### **7.20.040 Existing Users.**

The requirements for a permit listed in this Ordinance are applicable to all users. Existing users that are discharging to the sewer system without an Industrial Waste Discharge Permit may be required to apply for such permit. The determination for requirement shall be made by the WRD Manager in accordance with the requirements established in this Ordinance. The user shall be notified in writing of the requirement for a permit and shall be allowed to continue discharging into the sewer system until a permit is issued or denied provided that the characteristics and concentrations of wastes discharged are not in excess of the amounts established in this Ordinance. Discharges allowed under these conditions shall meet all other applicable requirements of this Ordinance.

A completed application for an Industrial Waste Discharge Permit shall be submitted to the WRD Manager within ninety (90) days after permit requirement notification was received.

#### **7.20.050 Application for an Industrial Waste Discharge Permit.**

Any significant industrial user proposing to begin or recommence discharging industrial wastes into the POTW must apply for and obtain an industrial waste discharge permit prior to beginning or recommencing such discharge.

Application for an Industrial Waste Discharge Permit shall be made to the WRD Manager on forms provided by the Regional Water Reclamation Facility. The application shall not be considered complete until all information identified on the form is provided, unless specific exemptions are granted by the WRD Manager.

Completed applications shall be submitted to the WRD Manager at least ninety (90) days prior to the date the discharge is to begin.

Contents of the permit application shall be subject to the confidentiality conditions in Section 7.30.070 of this ordinance.

**7.20.060 Wastewater Permit Re-issuance/Renewal.**

A user with an existing permit shall apply for permit re-issuance or renewal by submitting a complete permit application in accordance with the requirements of this ordinance at least sixty (60) days prior to the expiration of the user's existing permit.

**7.20.070 Application Information and Baseline Monitoring Report (BMR)**

An applicant for an industrial waste discharge permit shall be required to provide the following pertinent information on appropriate forms supplied by the City:

1. Name, address, and location (if different from address); the legal name and owner's name, if different; as well as the officer entitled to sign documents on behalf of the business. Contact information.
2. List of all environmental control permits held by or for the business or facility.
3. A description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used at the facility, which are or could accidentally or intentionally be discharged to the sanitary sewer system. Include all products produced by type, amount, and processes.
4. A description of the nature, average production rate, and SIC Code for each of the process operations conducted. Including the identification of applicable pretreatment standards.
5. Schematic process diagram indicating the flow of materials and water from start to completed product for each unit process generating wastewater. Include all sewers, floor drains, and all points of discharge from each process to the sewer system.
6. List of toxic substances or pollutants that potentially could be present in the wastewater discharge. Include substances that could enter due to accidental spill or slug discharge.
7. List of substances or constituents that potentially could be present in the wastewater discharge, which, if otherwise disposed of, would be considered a hazardous waste under 40 CFR Part 261. Include the name of the hazardous waste, the EPA Hazardous Waste Number, and the type of potential discharge (continuous, batch, or other).
8. Average daily and maximum daily flow rates in gallons per day. Include flow measurement information for process streams regulated by pretreatment standards and include flow information for other waste streams that might be considered dilute waste streams. Also include any routine or

seasonal variations, batch discharges, etc., and information regarding waste strengths for the various types of discharges. Also include time and duration of discharges, the location for monitoring all wastes covered by the permit;

**9. 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 WRD Manager, 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 Section 7.30.040 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the WRD Manager or the applicable Standards to determine compliance with the Standard.
- e. Sampling must be performed in accordance with procedures set out in Section 7.30.020 of this ordinance.

**10.** Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 7.30.050(3)(B).

**11.** Provide statement of certification concerning compliance or noncompliance with applicable pretreatment standards. The statement shall be reviewed by an authorized representative of the user and certified to by a qualified professional. Measurements of pollutant concentrations to verify compliance if required must be representative of daily operations and include reported values for daily maximum and average concentration (or mass, where required).

**12.** Any other information as may be deemed by the WRD Manager to be necessary to evaluate the permit application.

**7.20.080 Application Signatories and Certifications**

A. All industrial waste discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 7.30.080.

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 WRD Manager prior to or together with any reports to be signed by an Authorized Representative.

#### **7.20.090 Issuance of Industrial Waste Discharge Permits.**

The WRD Manager shall evaluate the data furnished by the user in the Industrial Waste Discharge Permit application and may require the user to provide additional information. After evaluation and acceptance of the data furnished, the WRD Manager may issue or deny an Industrial Waste Discharge Permit subject to terms and conditions provided in this ordinance. Copies of all permits shall be sent to the RVSS Manager.

##### **1. General Conditions.**

(a) Industrial Waste Discharge Permits shall be issued or denied by the WRD Manager within ninety (90) days after a completed application is received. If no determination is made within this time period, the application will be deemed denied. Industrial Waste Discharge Permits shall contain conditions that meet the requirements of this Ordinance as well as those of applicable State and Federal laws and regulations.

(b) If pretreatment facilities are needed to meet the discharge requirements in the discharge permit, the permit shall require the installation of such facilities.

(c) Whenever a discharge permit requires installation or modification of treatment facilities or a process change necessary to meet discharge standards or spill control requirements, a compliance schedule shall be included which establishes the date for completion of the changes and any appropriate interim dates. Interim dates for the commencement and completion of major events shall be no more than ninety (90) days apart.

(d) The WRD Manager may deny approval to issue a discharge permit if the discharge will result in violations of local, State, or Federal laws or regulations; will overload or cause damage to any portion of the treatment plant; or will create an imminent or potential hazard to personnel.

(e) Permits shall contain the following elements:

(i) A statement that indicates; the wastewater discharge permit issuance date, expiration date, effective date, and that the duration of the permit shall not exceed five (5) years;

(ii) A statement that the wastewater discharge permit is nontransferable without prior notification to the WRD Manager in accordance with Section 7.20.110 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(iii) Effluent limits, and Best Management Practices based on applicable Pretreatment Standards;

(iv) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.

(v) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with Section 7.30.050(3)(B).

(vi) 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.

(vii) Requirements to control Slug Discharges, if determined by the WRD Manager to be necessary

(viii) Any grant of the monitoring waiver by the WRD Manager (Section 7.30.050(3)(B)) must be included as a condition in the User's permit.

## **2. Specific Permit Conditions.**

Industrial Waste Discharge Permits shall be expressly subject to all provisions of this Ordinance and all other applicable regulations, user charges, and fees adopted by the participants. Permits may contain the following:

(a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a sewer;

(b) Mass limits of discharge where deemed appropriate;

(c) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization consistent with the capacity of the collection and treatment system;

(d) Requirements for installation and maintenance of pretreatment facilities, flow measurement devices, inspection and sampling facilities;

(e) Requirements for the submission of reports and compliance schedules;

(f) Requirements for submission of technical reports or discharge reports required by the WRD Manager, by provisions of the National Pretreatment Standards or to support monitoring requirements of the Pretreatment Program;

(g) Requirements for maintaining and retaining plant records relating to wastewater discharge and affording authorized representatives of the City access thereto;

(h) Other conditions as deemed appropriate to ensure compliance with this ordinance.

## **3. Non-discharging Categorical Industrial Users.**

Non-discharging users that have industrial processes that would otherwise be subject to national categorical pretreatment standards and requirements that have a potential to discharge, shall be issued no-discharge control mechanisms. Non-discharging users that have no potential to discharge may be issued an alternative control mechanism.

Potential to Discharge means: hard plumbing connected to the POTW's sanitary sewer in the proximity of the industry's processing area and/or in areas where hazardous chemicals or hazardous wastes are stored. This includes plumbing with shut-off valves and plumbing that has been plugged

with temporary or removable plugs. Plumbing that is not connected to sanitary sewer, or has been permanently disconnected or cemented shut would not constitute a potential to discharge. Examples that constitute potential to discharge include floor drains, clean-up sinks and industrial process discharge lines connected to the sewer.

#### **7.20.100 Modification of Permits.**

**1.** An industrial waste discharge permit or control mechanism may be modified for good and valid cause at the written request of the permittee or at the discretion of the WRD Manager. Copies of all permit modifications shall be sent to the RVSS Manager. Examples of when a permit may be modified may be including, but not limited to the following reasons:

(a) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;

(b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the industrial waste discharge permit or control mechanism issuance;

(c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(d) Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters;

(e) Violation of any terms or conditions of the industrial waste discharge permit or control mechanism;

(f) Misrepresentations or failure to fully disclose all relevant facts in the industrial waste discharge permit application or in any required reporting;

(g) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13;

(h) To correct typographical or other errors in the industrial waste discharge permit or control mechanism; or

(i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 7.20.110.

**2.** Permittee modification requests shall be submitted to the WRD Manager and shall contain a detailed description of all proposed changes in the discharge. The WRD Manager may request any additional information needed to adequately prepare the modification or assess its impact. The WRD Manager may deny a request for modification if the change will result in violations of Federal, State, or local laws or regulations; will overload or cause damage to any portion of the sewer system; or will create an imminent or potential hazard to personnel.

**3.** If a permit modification is made at the direction of the WRD Manager, the Permittee shall be notified in writing of the proposed modification and may have at least thirty (30) days to make appropriate changes. The WRD Manager may require the industrial user to immediately comply with the revised permit.

**4.** The adjustment of any existing local limit in accordance with the requirements of this Ordinance shall necessitate a permit modification for permits containing a previously established local limit. A change in discharge standards may require local limit adjustment.

5. A modification to the Permittee's discharge permit must be issued before any significant increase is made in the volume or level of pollutants in an existing permitted discharge to the sanitary sewer system.

6. Changes in the discharge involving the introduction of waste stream or streams not previously included in the Industrial Waste Discharge Permit application or involving the addition of new pollutants shall be considered a new discharge, requiring submission of a new permit application.

#### **7.20.110 Permit Transfer.**

Industrial waste discharge permits or control mechanisms are issued to a specific user for a specific operation. Control mechanisms shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the WRD Manager and provision of a copy of the existing control mechanism to the new owner/user. If no changes are made to the operation by the new owner, the approval shall be completed within thirty (30) days. Certification by the new owner or new user that no significant changes in operation have occurred may be required. If modifications are made in the operation, or if a new use of the premises is planned by the new user, a control mechanism modification or issuance of a new control mechanism shall be required.

#### **7.20.120 Trucked and Hauled Pollutant Permits.**

The WRD Manager may issue or deny a permit to authorize discharge of trucked and hauled pollutants subject to the terms and conditions provided by this Ordinance.

#### **7.20.130 Wastewater Permit Revocation.**

Wastewater permits may be revoked for any of the following reasons:

1. Failure to notify the Regional Water Reclamation Facility of significant changes to the wastewater prior to the changed discharge;
2. Falsifying self-monitoring reports;
3. Tampering with monitoring equipment;
4. Refusing to allow the WRD Manager timely access to the facility premises and records;
5. Failure to meet effluent limitations;
6. Failure to pay fines;
7. Failure to pay sewer charges;
8. Failure to meet compliance schedules;
9. Failure to provide advance notice of the transfer of a permitted facility;
10. Failure to timely correct a violation of any pretreatment standard or requirement, or any terms of a wastewater discharge permit or this ordinance.
11. Permits may be voided upon nonuse, cessation of operations, or transfer of business ownership. All are void upon the issuance of a new wastewater permit.

**Chapter 7.25**  
**Pretreatment, Flow Measurement, and Sampling Facilities**

**Sections:**

7.25.010	General
7.25.020	Pretreatment facilities
7.25.030	Flow measurement and sampling facilities
7.25.040	Sampling manhole
7.25.050	Grease interceptors and other pretreatment
7.25.060	Combustible gas detection meter

**7.25.010 General.**

Any requirement contained in this section may be incorporated as part of a control mechanism and made a condition of issuance of such control mechanism; may be required as part of a modification; or made a condition of the acceptance of the waste from a facility. Progress reports and compliance schedules shall be provided in accordance with the requirements established in this Ordinance.

**7.25.020 Pretreatment Facilities.**

1. If treatment facilities, operation changes, or process modifications at a user's facility are needed to comply with any requirements of this ordinance or are necessary to meet any applicable State or Federal requirements, the RVSS Manager/WRD Manager may require that such facilities be constructed or modifications or changes be made within a specified time period, taking into consideration construction time, impact of the untreated waste on the sewer system, economic impact on the facility, impact of the waste on the marketability of the treatment plant sludge or reclaimed wastewater, and any other appropriate factor.
2. Any facilities required to pretreat wastewater to a level acceptable to the WRD Manager shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities, operating procedures, and/or process modifications, shall be submitted to and acceptable to the WRD Manager before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge under the provisions of the ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the WRD Manager prior to the user's initiation of the changes.

**7.25.030 Flow Measurement and Sampling Facilities.**

If so directed by the WRD Manager or RVSS Manager, flow measurement, sampling devices, access facilities, and related equipment shall be installed by the user discharging the waste, at the user's expense, and shall be maintained by the user so as to be in safe condition, in proper operating condition at all times, and readily accessible to the requesting authority during periods of industrial activity of any type. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.

The flow measurement and sampling station shall be located and constructed in a manner acceptable to the requesting authority. Complete plans on all phases of the proposed installation including all

equipment proposed for use, shall be submitted to the WRD Manager for approval prior to construction.

#### **7.25.040 Sampling Manhole.**

The RVSS Manager/WRD Manager may require a user to install and maintain at the user's expense a suitable manhole in the user's branch sewer to allow observation, sampling and measurement of all industrial wastes being discharged into the sewer system. It shall be constructed in accordance with plans approved by the WRD Manager and shall be designed so that flow measuring and sampling equipment may be conveniently installed. Access to the manhole shall be available for monitoring purposes at all times when wastewater is being produced and/or discharged.

#### **7.25.050 Grease Interceptors and Other Pretreatment.**

Grease, oil, and sand interceptors shall be provided, operated, and maintained when the WRD Manager or RVSS Manager, determine that they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful substances; except that such interceptors shall not be required for residential users. All interceptors shall be located as to be readily accessible for cleaning and inspection.

All interceptors shall be inspected, cleaned, repaired, and maintained regularly, at the user's expense, to ensure efficient and proper operations at all times. The WRD Manager or RVSS Manager has the authority to establish interceptor cleaning frequencies, compliance with such established cleaning frequencies does not relieve the user of its obligation to comply with any or all other applicable regulations, standards, or requirements.

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. All cleaning residues shall be satisfactorily disposed of in an approved environmentally acceptable manner. FOG removed from interceptors shall not be disposed of in the sanitary or storm sewer. Decanting or discharging of removed waste back into the interceptor from which it was removed for the purpose of reducing the volume to be disposed is prohibited. The use of hot water, enzymes, bacteria, chemicals or other agents or devices for the purpose of causing the contents of the interceptor to be discharged into the sanitary sewer system or to avoid the installation of an interceptor is prohibited.

All grease, oil, and sand interceptors shall be installed in conformance with the most recent revision of the Oregon Plumbing Specialty Code, the rules adopted thereunder, and any statute or rule of general applicability administered by the State of Oregon Building Codes Division.

#### **7.25.060 Combustible Gas Detection Meter.**

Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

## **Chapter 7.30 Monitoring, Inspection, and Reporting**

**Sections:**

7.30.010	General
7.30.020	Waste sampling and monitoring
7.30.030	Inspection and entry requirements
7.30.040	Analytical requirements
7.30.050	Reporting requirements
7.30.060	Notification of changed conditions
7.30.070	Records retention and confidentiality
7.30.080	Application signatories and certification
7.30.090	Provision on fraud and false statements
7.30.100	Hazardous waste notification
7.30.110	Violation notification
7.30.120	Potential problem notification

### **7.30.010 General.**

The WRD Manager has the authority to carry out all inspection, surveillance, and monitoring activities necessary to determine compliance or noncompliance with applicable pretreatment standards and requirements.

### **7.30.020 Waste Sampling and Monitoring.**

1. Wastes discharged into the public sewers shall be subject to periodic inspection and a determination of character and concentration. For wastes discharged by users with an effective industrial waste discharge permit, the determinations shall be made at least annually with the option for more frequent intervals if any pollutant potentially exceeds any limit established by this ordinance. Sampling shall be carried out by customarily accepted methods to reflect the effect of pollutants upon the treatment plant and to determine the existence of hazardous conditions defined elsewhere in this ordinance.

Samples of wastewater being discharged into the sewer system shall be representative of the discharge and shall be taken after treatment. The sampling method shall be one approved by the WRD Manager and done in accordance with good engineering practice.

Except as indicated below, wastewater samples collected for the purposes of determining industrial user compliance with pretreatment standards and requirements must be obtained using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the WRD Manager may authorize the use of time proportional sampling.

(a) Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

(b) Samples that are taken by the authority of the WRD Manager for the purposes of

determining compliance with the requirements of this Ordinance shall be split with the WRD Manager and the industrial user (or a duplicate sample provided in the instance of fats, oils, and greases) if requested before or at the time of sampling.

2. The RVSS Manager/WRD Manager may require waste sampling and monitoring by the user at the user's expense if information and/or data is needed to determine compliance with pretreatment standards, determine the treatability of the waste, establish a sewer rate charge, or determine any other factor which is related to the operation and maintenance of the sewer system. The locations, frequencies, and types of sampling and monitoring shall be determined by the WRD Manager.

### **7.30.030 Inspection and Entry Requirements.**

The RVSS Manager and/or WRD Manager 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 individual control mechanism or order issued hereunder. Users shall allow the RVSS Manager and/or WRD Manager 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 RVSS Manager and/or WRD Manager shall be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The RVSS Manager and/or WRD Manager 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 RVSS Manager and/or WRD Manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.

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 RVSS Manager and/or WRD Manager and shall not be replaced. The costs of clearing such access shall be borne by the user.

E. Unreasonable delays in allowing the RVSS Manager and/or WRD Manager access to the user's premises shall be a violation of this ordinance.



### **7.30.040 Analytical Requirements.**

All pollutant analyses, including sampling techniques, to be submitted as part of a permit application or compliance 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 WRD Manager or other parties approved by DEQ and the RWRf.

Industrial user process control data analyses may be performed by methods that are not EPA approved methods, but shall be by methods approved by the WRD Manager. Analyses performed by non-EPA approved methods may be used for routine process evaluations, but may not be used for compliance verification or reporting.

### **7.30.050 Reporting Requirements.**

Any user may be required to report the status of their wastewater discharge concerning compliance with the requirements of this Ordinance. The frequency of the reports and method of submittal shall be determined by the WRD Manager. If a user subject to reporting requirements monitors any pollutant more frequently than required by the WRD Manager, the results of this monitoring shall be included in the required report.

#### **1. Baseline Monitoring Reports.**

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 significant industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the municipal system shall be required to submit to the RWRf a report that contains the information listed in paragraph a), below. At least ninety (90) days prior to commencement of their discharge, new sources, including existing users that have changed their operation or processes so as to become new sources, shall be required to submit to the RWRf a report that contains the information listed in paragraph a). A new source shall also be required to report the method it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(a) The information required by this section includes:

(i) Identifying Information. The user shall submit the name and address of the facility including the name of the operator and owners, contact information, description of activities, facilities, and plant production processes on the premises;

(ii) Permits. The user shall submit a list of any environmental control permits held by or for the facility;

(iii) Description of Operation.

(a) The user shall submit 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 industrial user. This description should include a schematic process diagram that indicates points of discharge to the POTW 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 POTW;
- (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;

(iv) Flow Measurement. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams as necessary to allow use of the combined waste stream formula set out in 40 CFR 403.6(e), as well as time and duration of discharges;

(v) Measurement of Pollutants.

- (a) The user shall indicate the location for monitoring all wastes covered by the permit.
- (b) The user shall identify the categorical pretreatment standards applicable to each regulated process;
- (c) In addition, the user 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 136. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the WRD Manager or the applicable Standards to determine compliance with the Standard;
- (d) A minimum of four (4) 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. Samples may be obtained through time proportional sampling techniques or through four (4) grab samples if the user proves to the satisfaction of the City that such samples will be representative of the discharge.

(vi) Special Certification. A statement, reviewed by an authorized representative of

the industrial user and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operations and maintenance (O & M) and/or additional pretreatment is required in order to meet the pretreatment standards and requirements;

(vii) Compliance Schedule. If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and/or O & M. The completion date in this schedule will 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 this Ordinance;

(viii) Signatory Requirement. All baseline-monitoring reports must be signed and certified in accordance with the requirements of this Ordinance.

## **2. Compliance Deadline Reports.**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source, following commencement of the introduction of wastewater into the municipal wastewater system, any industrial user subject to such pretreatment standards and requirement shall submit to the RWRP a report containing the information described in Section 7.20.070 and 7.30.050(1)(a)(v). For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 7.30.080 of this ordinance.

## **3. Periodic Compliance Reports**

A. All significant industrial users must, at a frequency determined by the WRD Manager submit no less than twice per year (June and December, or on dates specified) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a best management practice (BMP) or pollution prevention alternative, the user must submit documentation required by the WRD Manager or the pretreatment standard necessary to determine the compliance status of the user.

B. The City may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:

(1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.

(2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than 5 years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See Section 7.20.070.

(3) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(4) The request for a monitoring waiver must be signed in accordance with Section 7.20.070(4), and include the certification statement in 7.30.080

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

(6) Any grant of the monitoring waiver by the WRD Manager must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the WRD Manager for 3 years after expiration of the waiver.

(7) Upon approval of the monitoring waiver and revision of the user's permit by the WRD Manager, the industrial user must certify on each report with the statement in Section 7.30.080, that there has been no increase in the pollutant in its waste stream due to activities of the industrial user.

(8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately: Comply with the monitoring requirements of Section 7.30.050(3), or other more frequent monitoring requirements imposed by the WRD Manager, and notify the WRD Manager.

(9) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

C. All periodic compliance reports must be signed and certified in accordance with Section 7.30.050 of this ordinance.

D. 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.

E. 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 WRD Manager, using the procedures prescribed in Section 7.30.020 and Section 7.30.040 of this ordinance, the results of this monitoring shall be included in the report.

#### **4. Compliance Schedules and Progress Reports.**

If additional pretreatment, monitoring equipment, process control, or equipment modification will be required to meet the pretreatment standards established under this ordinance the RVSS Manager/WRD Manager may require the user to provide progress reports and compliance schedules. The compliance schedule shall be subject to WRD Manager approval or may be established by the WRD Manager at his discretion. The schedule shall define the shortest schedule to provide the required action. The completion date in this schedule shall not be later than the compliance date established for the applicable Categorical Pretreatment Standard.

The following conditions shall apply to this schedule:

(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 requirements. Such events include hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, start up and full operation. Interim dates for major events shall not be more than ninety (90) days apart.

(b) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the WRD Manager including, as a minimum, whether or not it complied with the increment of progress to be met on such 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 user to return the construction to the schedule established. In no event shall more than ninety (90) days elapse between such progress reports to the WRD Manager.

#### **7.30.060 Notification of Changed Conditions.**

Each industrial user is required to notify the WRD Manager of any planned significant changes to the industrial user's operations or pretreatment systems that might alter the nature, quality, or volume of its wastewater; this includes any change in spill or slug discharge potential.

**1.** The WRD Manager may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition.

2. The WRD Manager may modify an existing wastewater permit to accommodate the change.
3. No industrial user shall implement the planned changed condition(s) until the WRD Manager has responded to the industrial user's notice.
4. For purposes of this requirement, flow increases of fifteen percent (15%) or greater, and the discharge of any previously unreported pollutant shall be deemed significant.

#### **7.30.070 Records Retention and Confidentiality.**

Industrial users shall retain and make available for inspection and copying, all records and information required to be retained under 40 CFR 403.12(o), this includes information associated with Best Management Practices and any waivers data or information. These records shall remain available for a period of at least three (3) years, or at least three years after a waiver has expired.

1. Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits, and monitoring programs, and from inspection and sampling activities conducted by the WRD Manager, shall be available to the public without restriction unless the industrial user specifically requests in writing and is able to demonstrate to the satisfaction of the WRD Manager that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State laws.

(a) Wastewater pollutants, 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.

(b) When requested and demonstrated by the industrial 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 this ordinance, the National Pollutant Discharge Elimination System (NPDES) program, and in enforcement proceedings involving the person furnishing the report.

2. All users subject to this ordinance shall retain and preserve for no less than three (3) years, all records of information resulting from any monitoring activities (including records associated with Best Management Practices) required by this ordinance. Such records shall include for all samples; the date, sample location, method, and time of sampling and the names of the person or persons taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques/methods use; and results of such analyses.

3. All records, which pertain to matters that are the subject of any enforcement or litigation activities 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.

#### **7.30.080 Application Signatories and Certification.**

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 Section 7.20.050; Users submitting baseline monitoring reports under Section 7.30.050(1); Users submitting reports on compliance with the categorical

Pretreatment Standard deadlines under Section 7.30.050(2); Users submitting periodic compliance reports required by Section 7.30.050(3)(A), and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 7.30.050(3)(B). The following certification statement must be signed by an Authorized Representative:

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.

#### Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 7.30.050(3)(B) must certify on each report with the following statement that there has been no increase in the pollutant in its waste stream due to activities of the User.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR \_\_\_\_\_ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of \_\_\_\_\_ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 7.30.050(3).

#### **7.30.090 Provision on Fraud and False Statements.**

Any reports required under the authority of this ordinance and any other documents required to be submitted to the WRD Manager or maintained by the industrial user shall be subject to enforcement provision of this ordinance, and municipal and state law relating to fraud and false statements. In addition, the industrial user shall be subject to:

- (a) The provisions of 18 U.S.C. Section 1001 relating to fraud and false statements;
- (b) The provisions of Section 309(c)4 of the Clean Water Act, as amended governing false statements representation or certification; and
- (c) The provision of Section 309(c)(6) regarding responsible corporate officers.

#### **7.30.100 Hazardous Waste Notification.**

All industrial users shall notify the WRD Manager, the EPA Regional Waste Management Division Director, and State Hazardous Waste Authorities in writing of any discharge into the sewer system 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).

**7.30.110 Violation Notification.**

If sampling performed by a user indicates a violation, the user shall notify the WRD Manager within twenty-four (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 within thirty (30) days after becoming aware of the violation. If sampling performed by the City indicates a violation, the City may require the User to perform the repeat sampling and continue to sample until the User is in compliance. The analytical results must be submitted to the WRD Manager within 30 days after becoming aware of the violation.

**7.30.120 Potential Problem Notification.**

All industrial users shall notify the WRD Manager immediately of all discharges that could cause problems to the POTW including any slug loadings.

**7.30.130 Seasonal Operation Notification.**

1. Any user discharging more than 10,000 gallons per day shall notify the WRD Manager and the RVSS Manager at least seven (7) days prior to commencing discharge to the sewer system if the user has not been discharging wastewater at industrial rates for a thirty (30) day period prior to restarting. Notification seven (7) days prior to the first discharge allows the treatment plant to prepare the biological system for increased loading. Information supplied should include, approximate hours of operation, number of shifts, and estimated production rates in gallons per day and strength of waste for the first week of operation.

2. Any user discharging more than 10,000 gallons per day in a seasonal operation shall notify the WRD Manager and the RVSS Manager at least seven (7) days in advance of a shutdown anticipated to be thirty (30) days or greater in duration.

**Chapter 7.35  
Violations**

Sections:

- 7.35.010 Violations.
- 7.35.020 Notice of violation.
- 7.35.030 Failure to correct violation.
- 7.35.040 Public participation requirement.
- 7.35.050 Consent orders.
- 7.35.060 Show cause hearing.
- 7.35.070 Compliance orders.
- 7.35.080 Injunctive relief.
- 7.35.090 Civil penalties.
- 7.35.100 Cease and desist orders.
- 7.35.110 Administrative fines.



- 7.35.120 Criminal prosecution.
- 7.35.130 Restoration of service.
- 7.35.140 Search warrants.
- 7.35.150 Emergency suspensions.
- 7.35.160 Termination of permit.
- 7.35.170 Cost recovery.
- 7.35.180 Appeals.
- 7.35.190 Conflict.
- 7.35.200 Severability.
- 7.35.210 Water supply severance.
- 7.35.220 Affirmative defense.
- 7.35.230 Operating upsets.
- 7.35.240 Bypass.

#### **7.35.010 Violations.**

A violation shall be considered to have occurred when any requirement of this ordinance has not been met; when a written request of the RVSS Manager/WRD Manager, made under the authority of this ordinance, is not met within the specified time; when a condition of a permit, contract, or other control mechanism issued under the authority of this ordinance is not met within the specified time; when effluent limitations are exceeded, regardless of intent or accident; or when false information has been provided by the user.

The remedies provided for in this ordinance are not exclusive. The RVSS Manager/WRD Manager 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 RVSS Manager/WRD Manager may take other action against any User when the circumstances warrant. Further, the RVSS Manager/WRD Manager is empowered to take more than one enforcement action against any noncompliant User.

#### **7.35.020 Notice of Violation.**

Upon determination by the WRD Manager that a violation has occurred or is occurring, the RVSS Manager/WRD Manager may issue a Notice of Violation to the user which outlines the violation and the potential liability as well as any proposed enforcement actions. The Notice may further require correction of the violation within a specified period of time, and may require written confirmation of the correction and a description of the efforts made to correct the violation. The notice shall be personally delivered to the user's premises or be sent by certified mail. In an emergency, notice may be given orally, but shall be confirmed in writing at the earliest practical time. Notice by mail is presumed to be received by the addressee on the third day after mailing.

#### **7.35.030 Failure to Correct Violation.**

Whenever an industrial user continues to violate the provisions of the ordinance, permits, or orders issued hereunder, or any other pretreatment requirement, the RVSS Manager/WRD Manager may

initiate monetary penalties, grant extensions for correction of the violation, halt or prevent the discharge of the pollutants, or terminate the discharge. Such other action as may be appropriate for legal and/or equitable relief may also be sought by the RVSS Manager/WRD Manager including, but not limited to, civil or criminal actions.

**1.** In the event a user shall fail to correct any violation within the time specified by the RVSS Manager/WRD Manager, the RVSS Manager/WRD Manager may initiate monetary penalties. Penalties issued by the RVSS Manager/WRD Manager will be set in an amount and in a manner in accordance with Section 6.9, of the Enforcement Response Guide of the RWRP's approved pretreatment program's implementation manual and may be initiated with or without the initiation of judicial proceedings. Fines and penalties resulting from failure to correct violations within the time specified by the RVSS Manager/WRD Manager are due and payable by the user within fourteen (14) days after receipt of billing. Fines collected shall go into the Trust Fund for Operation and Maintenance of the Treatment Plant.

Fines and penalties issued by the RVSS Manager will be done in accordance with Section 8.50 of this Code.

**2.** If in the opinion of the WRD Manager conditions warrant and the violation situations are not determined to be emergencies, an extension may be granted to allow additional time to correct the violation. Violation extensions are granted at the discretion of the WRD Manager and may be revoked if any of the violation extension conditions are not met.

**3.** With or without the initiation of judicial proceedings, the RVSS Manager/WRD Manager, may halt or prevent any discharge of pollutants into the sewer system and may physically terminate a discharge into the sewer system when:

(a) The user has failed to correct any violation within the time specified by the WRD Manager in the Notice of Violation or the Notification of Extension;

(b) The user has failed to pay costs or penalties within the time specified which he has been required to pay in accordance with the requirements of this Ordinance.

(c) A violation creates an emergency situation; An emergency situation is defined as a situation in which, in the opinion of the WRD Manager, action must be taken as rapidly as possible in order to prevent or reduce a present or potential danger or hazard to the environment, the sewer system or any person or property. Includes any situation that reasonably appears to present an imminent endangerment to the health or welfare of persons.

**4.** A Notice of Termination shall be provided to the user prior to physically terminating the discharge.

(a) In situations that are determined by the WRD Manager not to be emergencies, the Notice of Termination shall be in writing and shall contain the reasons for the termination, the effective date, and notice of the opportunity for an informal hearing before the WRD Manager at least ten (10) days before the effective termination date. The notice shall be personally delivered or sent by certified mail to the business address of the user at least thirty (30) days prior to the effective termination date.

(b) In situations that are determined by the WRD Manager to be emergencies, the initial Notice of Termination may be oral or written and the termination of the discharge may be immediate.

(i) If oral notice is given, it shall be given to the Authorized Representative of the user

personally or by telephone and shall be followed within two (2) working days by written notice that is mailed or delivered to the business address of the user. If the Authorized Representative cannot be reached, oral notice may be given to a person who is apparently in charge of the user's office or facility. The effective date of the termination in emergencies may be immediately after oral or written notice has been given as required in this paragraph.

(ii) The Emergency Notice of Termination shall inform the user of the opportunity for an informal hearing before the WRD Manager at the earliest practical date.

#### **7.35.040 Public Participation Requirement.**

A list of industrial users, which were determined by the WRD Manager to be in significant noncompliance with applicable pretreatment requirements, shall be published at least annually in the largest daily newspaper published in the service area of the treatment plant.

A significant industrial user will have been in significant noncompliance if its violation meets one or more of the following criteria (any Industrial User may be determined to be in Significant Non-Compliance (SNC) if it has shown to have violated paragraphs C, D or H):

(A) Chronic violations of wastewater Discharge limits, defined here as those in which 66 percent (66%) or more of all of the measurements taken for the same pollutant parameter during a 6-month (6) period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

(B) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent (33%) or more of all of the measurements taken for the same pollutant parameter during a 6-month (6) period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(C) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other Discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);

(D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;

(E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(F) Failure to provide, within 45 days after the due date, required reports such as baseline

monitoring reports, report on compliance with categorical pretreatment standards, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(G) Failure to accurately report noncompliance;

(H) Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local Pretreatment program.

#### **7.35.050 Consent Orders.**

The WRD Manager may enter into Consent Orders, assurance of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as administrative orders and shall be judicially enforceable.

#### **7.35.060 Show Cause Hearing.**

The WRD Manager may order any industrial user that causes or contributes to violations(s) of this Ordinance, wastewater permits, or orders issued hereunder, or any other pretreatment requirement to appear before the WRD Manager and show cause why a proposed enforcement action should not be taken. Notice shall be served on the industrial 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 this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the industrial user. Whether or not the industrial user appears as notified, immediate enforcement action may be pursued following the hearing date.

#### **7.35.070 Compliance Orders.**

When the WRD Manager finds that an industrial user has violated or continues to violate the ordinance, permits or orders issued hereunder, or any other pretreatment requirement, the WRD Manager may issue an order to the industrial user responsible for the discharge directing that, following a specific time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain such 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. Furthermore, the WRD Manager may continue to require such additional self-monitoring after consistent compliance has been achieved.

#### **7.35.080 Injunctive Relief.**

Whenever an industrial user has violated or continues to violate the provisions of this ordinance, permits or orders issued hereunder, or any other pretreatment requirements, the RVSS Manager/WRD

Manager, may petition a court of competent jurisdiction for the issuance of a 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 ordinance on activities of the industrial user. Such other action as may be appropriate for legal and/or equitable relief may also be sought by the RVSS Manager/WRD Manager. The Court shall grant an injunction without requiring a showing of a lack of an adequate remedy at law.

#### **7.35.090 Civil Penalties.**

Any industrial user which has violated or continues to violate this ordinance, any order or permit hereunder, or any other pretreatment requirement shall be liable to the RVSS Manager/WRD Manager for civil penalties of \$1,000 to \$25,000 per violation per day. 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.

1. The RVSS Manager/WRD Manager may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred.
2. 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, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factors as justice requires.
3. Where appropriate, the RVSS Manager/WRD Manager may accept mitigation projects in lieu of the payment of civil penalties where the project provides a valuable service and the industrial user's expense in undertaking the project is at least one hundred and fifty percent (150%) of the civil penalty.

#### **7.35.100 Cease and Desist Orders.**

When the WRD Manager finds that an industrial user has violated or continued to violate this Ordinance, permits or order issued hereunder, or any other pretreatment requirement, the WRD Manager may issue an order to the industrial user directing it to cease and desist all such violations and directing the user to:

- (a) Immediately comply with all requirements.
- (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.

#### **7.35.110 Administrative Fines.**

Notwithstanding any other section of this ordinance, any user, which is found to have violated any provision of this ordinance, permits and orders issued hereunder, or any other pretreatment requirement, may be fined in an amount not to exceed \$3,000. 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 business day during the period of violation.

1. Assessments may be added to the user's next scheduled sewer service charge and the WRD Manager may use such other collection remedies as may be available for other service charges and fees.

2. Unpaid charges, fines, and penalties may, after thirty (30) days, be assessed an additional penalty of twenty percent (20%) of the unpaid balance and interest shall accrue thereafter at a rate of seven percent (7%) per month. Furthermore, these unpaid charges, fines and penalties, together with interest there from shall constitute a lien against the individual user's property.

3. Industrial users desiring to dispute such fines must file a written request for the WRD Manager to reconsider the fine along with full payment of the fine amount within ten (10) days of being notified of the fine. Where the WRD Manager believes a request has merit, he shall convene a hearing on the matter within fifteen (15) days of receiving the request from the industrial user. In the event the user's appeal is successful, the payment together with any interest accruing thereto shall be returned to the industrial user. The RWRF may add the costs of preparing administrative enforcement actions, such as notices and orders to the fine.

#### **7.35.120 Criminal Prosecution.**

1. Any industrial user who willfully or negligently violates any provisions of this ordinance, any orders or permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of \$2,500 to \$25,000 per violation per day or imprisonment for not more than one (1) year or both.

2. Any industrial user who knowingly makes any false statement, representations, or certifications in any application, record, report, plan or other documentation filed or required to be maintained pursuant to this ordinance, or wastewater permit, 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 \$1,000 to \$25,000 per violation per day or imprisonment for not more than one (1) year or both.

#### **7.35.130 Restoration of Service.**

Sewer service shall not be restored until all penalties and charges, including the expense of removal, closing and restoration shall have been paid or mutually agreed upon terms concluded and the cause for discontinuance of service corrected.

#### **7.35.140 Search Warrants.**

If the WRD Manager has been refused access to a building, structure, or property, or any part thereof, and if the WRD Manager has probable cause to believe that there may be a violation to this ordinance, or that there is a need to inspect as part of a routine inspection program of the RWRF designed to protect the overall public health, safety and welfare of the community, then upon application by the City Attorney, an appropriate Municipal Court Judge may issue a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the WRD Manager in the company of a uniformed police officer.

#### **7.35.150 Emergency Suspensions.**

The WRD Manager may suspend the wastewater permit of an industrial user whenever such 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 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 contribution. In the event of an industrial user's failure to immediately comply voluntarily with the suspension order, the WRD Manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the system, its receiving stream, or endangerment to any individuals. The WRD Manager may allow the industrial user to recommence its discharge when the user has demonstrated to the satisfaction of the RWRP that the period of endangerment has passed, unless termination proceedings are initiated against the user.

**2.** An industrial 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 occurrences to the WRD Manager prior to the date of any show cause or termination hearing.

#### **7.35.160 Termination of Permit.**

In accordance with the Section 7.20.130 of this ordinance and in addition to other provisions of this ordinance, any industrial user, which violates conditions of this ordinance, wastewater permits, or orders issued hereunder, is subject to permit termination.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and may be offered an opportunity to show cause why the proposed action should not be taken.

#### **7.35.170 Cost Recovery.**

**1.** The Manager/WRD Manager may recover all verifiable costs resulting from a discharge not in compliance with this ordinance, including but not limited to the repairing of damages to the sewer system, additional treatment costs, additional maintenance costs, and the paying of fines and penalties assessed the treatment plant by regulatory agencies. The costs may be in addition to any fines and penalties assessed the user in other sections.

**2.** Notice of intent to recover shall be by letter to the user; sent by certified mail, which states the specific violation, the penalties and damages sustained by the sewer system, the costs of those damages and penalties, and the costs determined as attributable to the discharge and, therefore, billed to the user.

**3.** The recovery costs are due and payable by the user within thirty (30) days after the notice is sent.

#### **7.35.180 Appeals.**

A final decision by the WRD Manager to adopt a rule establishing or modifying Technically Based Local Limits may be appealed by RVSS or any industrial user. A final decision by the WRD Manager concerning the issuance, denial or modification of an industrial waste discharge permit, concerning an alleged violation of this Ordinance or penalty therefore, or concerning a service charge for industrial waste may be appealed by the user affected by such action. Such decisions may be appealed

to the Regional Committee by mailing a written notice of appeal to the WRD Manager not later than twenty-one (21) days after the effective date of the decision or twenty-one (21) days after notice was mailed or otherwise given to the person, whichever is later. All appeals shall be first considered by the Technical Advisory Group, which shall make a recommendation to the Regional Committee. The matter shall be decided by the Regional Committee within sixty (60) days after receipt of the notice of appeal. The decision of the Regional Committee on the appeal shall be final and binding.

#### **7.35.190 Conflict.**

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

#### **7.35.200 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.

#### **7.35.210 Water Supply Severance.**

Whenever an industrial user has violated or continue to violate the provisions of this Ordinance, orders, or permits issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

#### **7.35.220 Affirmative Defense.**

1. An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 7.10.010(1) of this ordinance and the specific prohibitions in Section 7.10.010(2)(a) through 7.10.010 (2)(s) of this ordinance if it can prove that it did not know or have reason to know that its discharge 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 treatment plant was regularly in compliance with its NPDES permit, and in the case of interference, in compliance with applicable sludge use or disposal requirements.

2. The intentional diversion of waste streams from any portion of an industrial user's treatment facility shall be an affirmative defense to an enforcement action brought against the industrial user if the user can demonstrate that such a bypass was unavoidable to prevent loss of life, personal injury, or severe property damage. In order to be eligible for the affirmative defense, the industrial user must demonstrate that there was no feasible alternative to the bypass and submit notice of the bypass as required by 40 CFR 403.17.

The establishment of an affirmative defense under the provisions of this section does not relieve the user of liability for damages or extraordinary costs incurred by the POTW as a result of the discharge.



### **7.35.230 Operating Upsets.**

Any user which experiences an upset in operation which places the user in a temporary state of noncompliance with this ordinance or an Industrial Wastewater Discharge Permit issued pursuant to this ordinance shall inform the WRD Manager of the upset immediately. The user shall also submit, within twenty-four (24) hours of becoming aware of the upset, a description of the discharge and its causes, the period of noncompliance (if not corrected, the time noncompliance is anticipated to end), and the steps being taken to reduce, eliminate and prevent recurrence of the noncompliance.

If the information is given orally, the user must also submit a written report containing such information within five (5) days.

An upset shall be an affirmative defense to an enforcement action brought against a user for violating a pretreatment standard and requirement if the following conditions are met:

1. The user can identify the cause of the upset.
2. The facility was operating in a prudent and workmanlike manner at the time of the upset and complied with applicable O & M procedures.
3. The upset was reported in accordance with the requirement of this section.

Noncompliance caused by operational error, improperly designed pretreatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation does not constitute an upset.

The establishment of an affirmative defense under the provisions of this section does not relieve the user of liability for damages or extraordinary costs incurred by the POTW because of the discharge.

### **7.35.240 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 assure 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 WRD Manager, at least ten (10) days before the date of the bypass, if possible.

(2) A User shall submit oral notice to the WRD Manager of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) 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 WRD Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

#### D. Bypass

(1) Bypass is prohibited, and the WRD Manager 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 WRD Manager may approve an anticipated bypass, after considering its adverse effects, if the WRD Manager determines that it will meet the three conditions listed in paragraph (D)(1) of this Section.

### **Chapter 7.40 Industrial Wastewater Sewer Service Charge**

#### Sections:

- 7.40.010 Wastewater Strength Determination.
- 7.40.020 Wastewater volume determination.
- 7.40.030 Wastewater rate determination.
- 7.40.040 Pretreatment charges and fees.

#### **7.40.010 Wastewater Strength Determination.**

Each person discharging industrial wastes into the sanitary sewer system may, at his option, or shall, when directed by the RVSS Manager/WRD Manager, construct and maintain an approved control manhole, together with such flow measurement, flow sampling, and sample storage facilities for all waste entering the public sewer as may be required by the RVSS Manager/WRD Manager. These facilities may be used to obtain flow and wastewater characteristics for use as a basis for an industrial wastewater service charge. These facilities will be installed and maintained at the user's expense.

In lieu of directing the construction of measurement, sampling and sample storage facilities, the RVSS Manager/WRD Manager may require each person discharging industrial wastes into the sanitary sewer system to procure and test at the user's expense and in a manner approved by the WRD

Manager, sufficient composite samples on which to base and compute the person's industrial wastewater service charge.

The WRD Manager may, at his option, procure and test the wastewater discharge to determine the wastewater strength for use as a basis for an industrial wastewater service charge.

At least three (3) consecutive or separate twenty-four (24) hour composite waste samples shall be taken for the initial year. Additional composite waste samples shall be taken at least once during each subsequent eighteen (18) month period to determine changes in wastewater strengths.

A composite sample is a series of samples mixed together to approximate the average strength of discharge to the sewer. The sampling period may include any twenty-four (24) consecutive hour period, not necessarily midnight to midnight. All measurement methods shall be approved by the WRD Manager.

The WRD Manager shall determine which industrial waste discharges require sampling to determine waste strengths and shall, in accordance with this section, determine the wastewater strengths.

#### **7.40.020 Wastewater Volume Determination.**

The wastewater volume shall be determined based on actual flow measurement. In the event that actual flow measurement is not provided, the industrial wastewater charge shall be computed using the metered water flow to the premises as a basis for water flow. Metered water flow shall include all water delivered to or used on the premises and which is discharged to the sanitary sewer system. Cooling waters or water not discharged to a sanitary sewer shall be separately metered at the user's expense using deduct meters or any other manner approved by the WRD Manager. WRD Manager approval shall be obtained prior to allowing deduction of such flow from the total water used on the premises in computing the industrial wastewater sewer service charge. All metered water flows shall be metered at the user's expense. Allowances may be made in accordance with the requirements of this section.

#### **7.40.030 Wastewater Rate Determination.**

Extra Strength Industrial Waste Discharge shall be defined as industrial, commercial, or hospital industrial wastes discharged into the sewer system containing a total of more than sixty (60) pounds of Biochemical Oxygen Demand, or Suspended Solids in any one (1) day and having an average strength in excess of 300 ppm of Biochemical Oxygen Demand, or Suspended Solids.

##### **1. Composite Charge Rate.**

For each extra strength industrial waste discharger, the composite charge rate shall normally be employed. The composite charge rate shall be based on the average of composited samples obtained in accordance with the provisions of the wastewater strength determination section of this ordinance and the wastewater volume as determined in accordance with the provisions of the wastewater volume determination section of this ordinance.

The rate shall be established per 300 ppm of Biochemical Oxygen Demand, or Suspended Solids, or

fraction thereof in excess of the first 300 ppm of Biochemical Oxygen Demand, or Suspended Solids per 1,000 gallons of water. The rate shall be for the higher concentration of either BOD or Suspended Solids, but not assessed for both.

## **2. Other Charge Rates.**

If unusual effluent conditions make the calculations by the composite method impossible or unrealistic, another method of sampling and computation may be implemented by the WRD Manager.

## **3. Allowances.**

(a) Appropriate allowances may be made at the discretion of the WRD Manager, for the volume of domestic sewage at permissible limits of strength. The domestic sewage allowance shall be based on a ratio of one thousand gallons per month for each twenty-seven (27) employees using the sanitary sewer system.

(b) Favorable consideration will be given to users that can discharge compatible wastes during low flow periods of the night and on weekends. Case by case consideration will be given to those users at the discretion of the WRD Manager, to make rate adjustments commensurate with decreased impact on the sanitary sewer system.

(c) In the event wastewater volume determination is computed using metered water flow and deduct meters are not utilized, special allowances may be made at the discretion of the WRD Manager, for water consumption or loss based on verifiable industry standards, (e.g., evaporation, use in product, etc.).

## **4. Adjustments.**

The WRD Manager may check sewage strength as outlined in this section and give notice that extra strength charges be adjusted where applicable at any time in accordance with the most recent analysis.

## **5. Resampling Request: Fees**

Any user may request the WRD Manager to resample wastewater at no charge if eighteen (18) months or more have elapsed since the last such sampling. If less than eighteen (18) months have elapsed since the last sampling, then requests for the WRD Manager to resample wastes shall be submitted in writing and may require payment for a resampling fee. The resampling fee for each day of sampling shall be established by the WRD Manager.

## **6. Implementation of Charges.**

Changes in extra strength charges shall be effective for the month next following the month in which notice of adjustment was given.

### **7.40.040 Pretreatment Charges and Fees.**

The RWRP may adopt reasonable charges and fees for reimbursement of costs of setting up and operating the RWRPs Pretreatment Program, which may include:

- 1.** Fees for permit applications including the cost of processing such applications;
- 2.** Fees for monitoring, inspection, and surveillance procedures, including the cost of reviewing monitoring reports submitted by industrial users;

3. Fees for reviewing and responding to accidental discharge procedures and construction;
4. Fees for filing appeals;
5. Expenses incurred in collecting and analyzing samples of the industrial user's discharge.
6. Other fees and expenses as the RWRP 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 RWRP.