

ORDINANCE BILL NO. 6 FOR 1999

ORDINANCE NO. 1127

AN ORDINANCE REGULATING THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, PRIVATE SEWAGE DISPOSAL, THE INSTALLATION AND CONNECTION OF BUILDING SEWERS, AND THE DISCHARGE OF WATERS AND WASTES INTO THE PUBLIC SEWER SYSTEM; PROVIDING RATES AND SEWER USER CHARGES; PROVIDING PENALTIES FOR VIOLATIONS THEREOF IN THE CITY OF SWEET HOME, COUNTY OF LINN, STATE OF OREGON; REPEALING SWEET HOME ORDINANCE 1023 AND 1031.

THE CITY OF SWEET HOME DOES ORDAIN AS FOLLOWS:

ARTICLE I  
General Provisions

Section 1. Purpose. This chapter sets forth uniform requirements for users of the publicly owned treatment works (POTW) for the city and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 12561 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this chapter are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with its operation;
- B. To prevent the introduction of pollutants into the POTW, which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW.
- C. To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To improve opportunities for reuse and recycling of wastewater and sludge from the POTW.
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW; and
- F. To enable the city to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject.

This chapter authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

Section 2. Applicability. This chapter shall apply to all users of the POTW.

Section 3. Administration. Except as otherwise provided herein, the control authority, as defined in this chapter, shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the control authority may be delegated by the control authority to his/her authorized representative.

Section 4. Abbreviations. The following abbreviations shall have the designated meanings.

- "BOD" shall mean Biochemical oxygen demand.
- "CCB" shall mean Construction Contractors Board
- "CFR" shall mean Code of Federal Regulations.
- "DEQ" shall mean Department of Environmental Quality
- "EPA" shall mean U.S. Environmental Protection Agency
- "gpd" shall mean gallons per day.
- "mg/l" shall mean milligrams per liter

"NPDES" shall mean National Pollutant Discharge Elimination System  
"POTW" shall mean Publicly Owned Treatment Works.  
"RCRA" shall mean Resource Conservation and Recovery Act.  
"TSS" shall mean Total Suspended Solids  
"USC" shall mean United States Code

## ARTICLE II Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

Section 1. "Biochemical oxygen demand (BOD)" shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter (mg/l).

Section 2. "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

Section 3. "Building sewer" shall mean the extension from the building drain up to and including the connection fitting on the public sewer or other place of disposal.

Section 4. "City Manager" shall mean the Chief Executive Officer of the City, responsible to the City Council.

Section 5. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Section 6. "Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

Section 7. "Person" shall mean any individual, firm, company, association, society, corporation, partnership, co-partnership, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state or local governmental entities.

Section 8. "pH" shall mean a measure of acidity or alkalinity of a substance, expressed in standard units.

Section 9. "Properly shredded garbage" shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

Section 10. "Public sewer" shall mean a sewer in which owners of assessed properties have equal rights, is controlled by public authority, where two or more private building sewers are attached to the City sanitary public sewer system. Any length of 3", 4", 6" or 8" or larger pipe size may be considered public regardless of the presence or not of sewer appurtenances.

Section 11. "Sanitary Sewer" shall mean a sewer, which carries sewage, and to which storm, surface and ground waters are not intentionally admitted.

Section 12. "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and stormwaters as may be present.

Section 13. "Wastewater treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

Section 14. "Sewage works" shall mean all facilities for collecting, pumping, treating and disposing of sewage.

Section 15. "Sewer" shall mean a pipe or conduit for carrying sewage.

Section 16. "Shall" is mandatory; "may" is permissive.

Section 17. "Slug load" shall mean any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in this chapter or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

Section 18. "Storm drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Section 19. "Director" shall mean the Public Works Director of the City of Sweet Home, or his/her authorized deputy, agent or representative.

Section 20. "Suspended solids" shall mean the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering,

Section 21. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

Section 22. "Collection system" shall mean the system of public sewer to be operated by the City designed for the collection of sanitary sewage.

Section 23. "Commercial user" shall mean any premises used for commercial or business purposes, which are not an industry, as defined in this ordinance.

Section 24. "Domestic waste" shall mean any wastewater emanating from dwellings.

Section 25. "Equivalent Residential Unit (ERU)" shall mean a volume of wastewater which incurs the same costs from operations and maintenance as the average volume of domestic waste discharged from an average residential dwelling unit in the treatment works service area. For purposes of making this determination the City shall utilize the metered water use records or other metering device approved by the Public Works Director. Where a user believes his wastewater discharge to treatment works is substantially different than his water consumption; an appropriate adjustment shall be made providing the user demonstrates to the satisfaction of the Director the actual wastewater discharge. The volume attributed to an ERU where the BOD, suspended solids or other characteristic of the wastewater discharged by a user is significantly greater than a domestic waste shall be adjusted to account for the difference in the costs of treatment.

Section 26. "Industrial user" shall mean a discharger into the POTW of non-domestic wastewater and or any non-governmental, nonresidential user of the POTW which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under the following division:

- Division A – Agriculture, Forestry, and Fishing
- Division B – Mining
- Division D – Manufacturing
- Division E – Transportation, Communications, Electric, Gas, and Sanitary Services
- Division I – Services

A user in these Divisions may be excluded from the industrial category if it is determined that it will introduce domestic waste and waste from sanitary conveniences.

Section 27. "Industrial waste" shall mean that portion of the wastewater emanating from an industrial user, which is not domestic waste, or waste from sanitary convenience.

Section 28. "Operation and Maintenance" shall mean activities required ensuring the dependable and economical function of collection and treatment works.

- a. Maintenance: Preservation of functional integrity and efficiency of equipment and structures. This includes preventive maintenance, corrective maintenance, and replacement of equipment.
- b. Operation: Control of the unit processes and equipment that make up the collection and treatment works. This includes keeping financial and personnel management records, laboratory control, process control, safety and emergency operation planning, employment of attorneys and consultants, payment of court costs or fees reasonably associated with any of the above.

Section 29. "Service lateral" shall mean the building sewer up to and including the connection fitting on the public sewer.

Section 30. "Replacement" shall mean obtaining and installing equipment accessories or appurtenances that are necessary during the design or useful life, whichever is longer, of the collection and treatment works to maintain the capacity and performance form which such works were designed and constructed.

Section 31. "Residential user" shall mean user of a single-family dwelling.

Section 32. "Service area" shall mean all the area served by the treatment works and for which there is one uniform user charge system.

Section 33. "Publicly owned treatment works (POTW)" shall mean a "treatment works," as defined by Section 212 of the Act (33 USC 1292) which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Section 34. "User" shall mean a discharger into the POTW.

Section 35. "User charge" shall mean the monthly charges levied on all users of the POTW, and shall, at a minimum, cover each user's proportionate share of the cost of operation and maintenance (including replacement) of such works as provided under Section 204(b) (1) (A) of the Clean Water Act.

Section 36. "Act or the Act" shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended 33 USC 1251 et seq.

Section 37. "Approval authority" shall mean the State of Oregon Department of Environmental Quality (DEQ).

Section 38. "Authorized signatory of the user" shall mean:

1. If the user is a corporation:
  - a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
  - b. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty persons or having gross annual sales or expenditures exceeding twenty-five million dollars (in second-quarter 1980 dollars), and if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
3. If the user is a federal, state or local government facility; a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee.
4. The individuals described in paragraphs 1 through 3 above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to control authority.

Section 39. "Categorical pretreatment standard" or "categorical standard" shall mean any regulation containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of users and which appear in 40CFR Chapter I, Subchapter N, Parts 405-471.

Section 40. "City" shall mean the City of Sweet Home or the City Council of Sweet Home or its authorized representative.

Section 41. "Composite Sample" shall mean the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time, as specified by the control authority.

Section 42. "Control Authority" shall mean the City of Sweet Home; the person(s) authorized by the City to supervise, administer, implement, or otherwise perform activities of the industrial pretreatment program, and who is charged with these duties and responsibilities by this chapter.

Section 43. "Environmental Protection Agency (EPA)" shall mean the U.S. Environmental Protection Agency or its authorized representative.

Section 44. "Existing source" shall mean any source of discharge, the construction or operation of which commenced prior to the publication of EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

Section 45. "Grab sample" shall mean an individual sample collected over a period of time not to exceed fifteen minutes.

Section 46. "Indirect discharge" or "discharge" shall mean the introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act.

Section 47. "Interference" shall mean a discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal.

Section 48. "Medical waste" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory waste, and dialysis wastes.

Section 49. "National Pollutant Discharge Elimination System (NPDES) Permit" shall mean a permit issued to a POTW or other discharger pursuant to Section 402 of the Act.

Section 50. "New source" shall mean.

1. Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section; provided, that:
  - a. The building, structure, facility or installation is constructed at a site at which no other sources are located; or
  - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - c. The production or wastewater generating processes of the building, structure, facility or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)(b) or (c) above but otherwise alters, replaces or adds to existing process or production equipment.
3. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
  - a. Begun, or caused to begin as part of a continuous on-site construction program:
    - i. Any placement, assembly or installation of facilities or equipment, or
    - ii. Significant site preparation work including clearing, excavation or removal of existing building, structure or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or
  - b. Entered into a binding contractual obligation for the purchase of facilities or equipment, that is intended for use 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.

Section 51. "Noncontact cooling water" shall mean water used for cooling which does not come into direct contact with any raw material, intermediate product, and waste product or finished product.

Section 52. "Pass through" shall mean 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).

Section 53. "Pollutant" shall mean any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (i.e. pH, temperature, TSS, turbidity, color, BOD, chemical oxygen demand (COD), toxicity or odor).

Section 54. "Pretreatment" shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means (except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard).

Section 55. "Pretreatment requirements" shall mean any substantive or procedural requirement, other than a pretreatment standard, related to pretreatment and imposed on a user.

Section 56. "Prohibited discharge standards" or "prohibited discharges" shall mean prohibitions against the discharge of certain substances; these prohibitions appear in Section 13.08.060 of this chapter.

Section 57. "Septic tank waste" shall mean any sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.

Section 58. "Significant industrial user" shall mean:

1. A user subject to categorical pretreatment standards; or
2. A user that:
  - a. Discharges an average of twenty-five thousand gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); or
  - b. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant, or
  - c. Is designated as such by the control authority on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
3. Upon a finding that a user meeting the criteria in subsection 2 has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the control authority may at any time, on its own initiative or in response to a petition received from a user (and in accordance with procedures in 40CFR 403.8(f)(6)) determine that such user should not be considered a significant industrial user.

Section 59. "Wastewater" shall mean liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Section 60. "Appurtenance" shall mean those items at the endpoints of the mainline segments being cleanouts or manholes that are publicly administered and maintained.

### ARTICLE III Use of Public Sewers Required

Section 1. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City of Sweet Home, or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.

Section 2. It shall be unlawful to discharge to any natural outlet within the City of Sweet Home, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

Section 3. Except as provided by permitting regulations of the DEQ it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

Section 4. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes that use water or produce wastewater situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at the owner's expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within 90 days after date of official notice to do so; provided, that said public sewer is within 100 feet (30.5 meters) of the property line.

Section 5. The City requires that any public infrastructure required by this chapter be constructed to the opposite extent of the property from the boundary side providing the existing utility. On a case by case basis, the Public Works Director may allow the extension of public utilities to front a portion of the property to be served with the following conditions:

1. The public frontage of the property to be served shall be greater than 100 feet.
2. The allowed constructed frontage of the public utility serving the property will be a nominal 10 feet.
3. The public utility is to be designed for the full extent of the property boundary frontage.
4. The remaining portion of the public utility may be extended at the discretion of the City, request of the property owner or at the development of the adjacent "upstream" property owner.
5. An agreement shall be signed and recorded by the property owner binding the present and future property owner(s) heirs, successors and assigns for future construction costs when the utility is to be extended.

Section 6. Private development requiring extensions of mainline public sanitary sewer shall conform to current American Public Works Association construction standards, or as so revised. All extensions of public sanitary sewer shall be engineered and have prior DEQ approval. All extensions of public sanitary sewer on private lands shall require a minimum fifteen-foot wide easement. Access and utility easements shall be signed, notarized and recorded prior to issuance of right-of-way permit.

#### ARTICLE IV Private Sewage Disposal

Section 1. Where a public sanitary sewer is not available under the provision of Article III the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

Section 2. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit from the Oregon State DEQ prior to being issued a Building department plumbing permit.

Section 3. At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in Article III, a direct connection shall be made to the public sewer in compliance with this ordinance, and any septic tanks, cesspools, and similar private sewage disposal facility shall be abandoned in accordance with State law at no expense to the City. This connection shall be accomplished within ninety days of written notice of the availability of public sewers.

Section 4. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the City.

Section 5. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Oregon State Department of Environmental Quality.

Section 6. The Director shall have the authority to inspect any private sewage disposal system to determine and ensure compliance with this ordinance.

#### ARTICLE V Building Sewers and Connections

Section 1. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Director.

Section 2. There shall be two classes of permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Director.



Section 3. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Section 4. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. However, such connection must meet the following standards:

1. Minimum building sewer size from public sewer to front building: 6 inches.
2. Minimum building sewer size from front building to rear building: 4 inches.
3. Existing service size does not need to be upgraded when requested for medical hardship for members of the immediate family living in a second dwelling. Request must be through and approved by the City of Sweet Home Planning Commission.
4. Minimum building sewer service requirements for duplex dwelling units shall be two individual 4" service laterals. In cases where one 4" service lateral is present to the property, a second 4" building sewer shall be installed.
5. Multifamily dwelling units of 3 or more units shall provide to public works plumbing specification documents verifying available capacity to use a 4", 6" or 8" service lateral.
6. Sanitary sewer system development charges will apply to any second structure or building if building sewer is provided to that building.

Section 5. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Director to meet all requirements of this ordinance. Any instances of service laterals found to be made of "orange-burg" type material will require removal and replacement with an approved material.

Section 6. The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and back-filling the trench shall all conform to the requirements of the building and plumbing code and the most current specifications of the American Public Works Association. Clean-outs shall be placed at the property right-of-way line on new construction of building sewers.

Section 7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain or fixture is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a residential sewage pump and vault designed for the storage and transport of domestic sanitary sewage and approved by the Director.

Section 8. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface run-off or groundwater to a building sewer or building drain that in turn is connected directly or indirectly to a public sanitary sewer.

Section 9. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code and the most current specifications of the American Public Works Association. All connections of the building sewer into the public sewer shall be performed by DEQ licensed and bonded contractors. All such connections shall be made gas-tight and watertight. The Director before installation must approve any deviation from the prescribed procedures and materials.

Section 10. The applicant for the permit shall notify the Director when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Director or his representative.

Section 11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City. A Public Works permit is required when working in any public right-of-way. At the time of permit application contractors must provide company name(s), address(es), telephone number(s), CCB number and DEQ number.

Section 12. Maintenance and repair of the building sewer is the responsibility of the owner of the property served. The building sewer may extend any distance of 3", 4", 6", 8" or larger pipe size to a public main as defined with segment endpoints with appurtenances or to a point on the building sewer where a second building sewer from a second property is connected.

Section 13. Extension for any length of the City sanitary public sewer system at the request of a developer and not as part of a local improvement district or subdivision action, shall conform to the following.

- A. Projects shall be engineered and reviewed and approved by DEQ
- B. Asbuilt submittals shall be to the standards of the Control Authority
- C. Developers shall extend service to potential properties within the project limits at the discretion of the Control Authority.

Section 14. Upon acceptance by the City of public infrastructure within subdivisions, it is the responsibility of the property owner to provide any new sewer service to any new property if any future property partitions and/or lot line adjustments of tax lots within the subdivision take place.

## ARTICLE VI Use of Public Stormwater Sewers

Section 1. Use of Public Stormwater Sewers.

- A. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Director. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Director or the appropriate jurisdictional authority, to a storm sewer or natural outlet.
- B. Stormwater sewer or channel sizing shall conform to all Master Storm Drainage Plan requirements.
- C. Standard culvert material shall be of Portland Cement Concrete. Smooth bore plastic pipe with an "n" value of 12 shall have concrete headwalls and may be approved at the discretion of the control authority.

Section 2. Prohibited discharge standards.

- A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater, which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.
- B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:
  1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a close-cup flashpoint of less than one hundred forty degrees F (sixty degrees C) using the test methods specified in 40 CFR 262.21;
  2. Wastewater that has a pH less than 6.0 or more than 9.5, or otherwise causing corrosive structural damage to the POTW or equipment, unless specifically authorized by the control authority;
  3. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch in any dimension;
  4. Pollutants, including oxygen-demanding pollutant (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

5. Wastewater having a temperature greater than one hundred-fifty degrees F, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred-four degrees F (forty degrees C);
6. Petroleum oil, non-biodegradable cutting oil, or products or mineral oil origin, in amounts that will cause interference or pass through;
7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
8. Trucked or hauled pollutants, except at discharge points designated by the control authority;
9. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
10. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal and approved by the control authority;
11. Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the control authority;
12. Sludges, screenings or other residues from the pretreatment of industrial wastes, unless specifically authorized by the control authority;
13. Medical wastes, except as specifically authorized by the control authority in a wastewater discharge permit;
14. Any material into a manhole through its top unless specifically authorized by the control authority.

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.

Section 3. Categorical pretreatment standards. The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the control authority may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the control authority shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(3).
- C. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- D. A user may obtain a new gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

Section 4. State pretreatment standards. State pretreatment standards and any other applicable state standards or requirements are hereby incorporated.

Section 5. Local limits. The city reserves the right to, at any time, establish specific pollutant limits for protections against pass through and interference.

Section 6. Right of revision. The control authority reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

Section 7. Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge

limitation unless expressly authorized by an applicable pretreatment standard or requirement. The control authority may impose mass limitations on users that are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

#### Section 8. Public Works Director – Authority.

- A. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 2 of this article, and which in the judgment of the Director may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Director may:
  - (a) Reject the wastes;
  - (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
  - (c) Require control over the quantities and rates of discharge; and/or
  - (d) Require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this article.
- B. If the Director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Director and subject to the requirements of all applicable codes, ordinances and laws.

#### Section 9. Water Quality Manholes.

- A. When required by the Director, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Director. The manhole shall be installed by the owner at his expense, and shall be maintained by the owner so as to be accessible and safe at all times.
- B. When required by the Director, the owner of any property serviced by a storm drain carrying parking lot runoff, shall install a suitable control manhole with appurtenances to detain, filter or settle waste from the storm drainage. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Director. The manhole shall be installed by the owner at his expense, and shall be maintained by the owner so as to be accessible and safe at all times.

Section 10. Measurements, tests and analyses. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constants upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample of sample should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pHs are determined from periodic grab samples.)

### ARTICLE VII Pretreatment of Wastewater

Section 1. Pretreatment Facilities. Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all national pretreatment standards, local limits, and the prohibitions set out in Article 6, Section 2 of this chapter within the time limitations specified by EPA, the state, or the control authority, whichever is more stringent. Any facilities necessary for compliance shall be

provided, operated and maintained at the user's expense. Detailed plans describing such facilities and operating procedures will in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the control authority under the provisions of this chapter.

**Section 2. Additional pretreatment measures.**

- A. Whenever deemed necessary, the control authority may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.
- B. The control authority may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- C. Grease, oil and sand interceptors shall be provided when, in the opinion of the control authority, they are necessary for the proper handling of wastewater containing excessive amounts grease and oil, sand, any flammable wastes, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the control authority and shall be located as to be readily and easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the user at the user's expense.
- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

**Section 3. Accidental discharge/slug control plans.** At least once every two years the control authority shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The control authority may require any user to develop, submit for approval, and implement such a plan. An accidental discharge/slug control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including non-routine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the control authority of any accidental or slug discharge, as required by Article X, Section 6. Such notification must also be given for any discharge which would violate any of the prohibited discharges in Article XVI, Section 2; and
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

The review and/or approval of such plans will in no way relieve the user from the responsibility of modifying such plans or facilities as necessary to comply with the provisions of this chapter.

**Section 4. Hauled wastewater.**

- A. Septic tank waste may be introduced into the POTW only at locations approved by the control authority and at such times as are established by the control authority. Such wastes shall not violate Article VI of this chapter or any other requirements established by the control authority. The control authority may require septic tank waste haulers to obtain wastewater discharge permits.
- B. The control authority shall require haulers of industrial waste to obtain wastewater discharge permits. The control authority may require generators of hauled industrial waste to obtain wastewater discharge permits. The control authority also may prohibit the

- disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.
- C. Industrial waste haulers may only discharge loads designated by the control authority. No load may be discharged without prior consent of the control authority. The control authority may collect samples of each hauled load to ensure compliance with applicable standards. The control authority may require the hauler to provide a waste analysis of any load prior to discharge.
  - D. Industrial waste haulers must provide a waste tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

## Article VIII Wastewater Discharge Permit Application

Section 1. Wastewater analysis. When requested by the control authority, a user must submit information on the nature and characteristics of the user's wastewater. The control authority is authorized to prepare a form for this purpose and may periodically require users to update the information. Failure to provide the information shall be reasonable grounds for denying or terminating service to the user and shall be considered a violation of this chapter.

### Section 2. Wastewater discharge permit requirement

- A. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the control authority, except a significant industrial user that has filed a timely application pursuant to Section 3 of this Article may continue to discharge for the time period specified therein.
- B. The control authority may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this chapter.
- C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and subject the wastewater discharge permittee to the sanctions set out in Articles XIII through XVI of this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

Section 3. Wastewater discharge permitting - existing connections. Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of the ordinance codified in this chapter and who wishes to continue such discharges in the future, shall, within ninety days after said date, apply to the control authority for a wastewater discharge permit in accordance with Section 5 of this Article, and shall not cause or allow discharges to the POTW to continue after one hundred fifty days of the effective date of said ordinance except in accordance with a wastewater discharge permit issued by the control authority.

Section 4. Wastewater discharge permitting - new connections. Any user required to obtain a wastewater discharge permit that proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit in accordance with Section 4 of this Article must be filed at least sixty days prior to the date upon which any discharge will begin or recommence.

Section 5. Contents. All users required to obtain a wastewater permit must submit a permit application. The control authority may require a user to submit as part of an application the following information:

- A. The information required by Article X, Section 1.

- B. Description of activities, facilities and plant processes on the premises, including 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 of employees, hours of operation and proposed or actual hours of operation;
- D. Each product produced by type amount, process or processes, and rate of production;
- E. Type and amount of raw materials processed (average and maximum per day);
- F. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, chemical storage areas, and appurtenances by size, location and elevation, and all points of discharge;
- G. Time and duration of discharges; and
- H. Any other information as may be deemed necessary by the control authority to evaluate the wastewater discharge permit application.

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

Section 6. Application signatories and certification. All wastewater discharge permit applications and user reports must be signed by an authorized signatory of the user and contain the following certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a 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 there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Section 7. Wastewater discharge permit decisions. The control authority will evaluate the data furnished by the user and may require additional information. Within sixty days of receipt of a complete wastewater discharge permit application, the control authority will determine whether or not to issue a wastewater discharge permit. The control authority may deny any application for a wastewater discharge permit.

#### Article IX.

#### Wastewater Discharge Permit Issuance Process

Section 1. Duration. Wastewater discharge permits shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the control authority. Each wastewater discharge permit will indicate a specific date upon which it will expire.

Section 2. Contents. Wastewater discharge permits shall include such conditions as are deemed reasonably necessary by the control authority to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, protect the public, facilitate sludge management and disposal, and protect against damage to the POTW.

- A. Wastewater discharge permits must contain:
  - 1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;
  - 2. A statement that the wastewater discharge permit is nontransferable;
  - 3. Effluent limits based on applicable pretreatment standards;
  - 4. 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; and
  - 5. 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.

- B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
  2. Requirements for the installation and maintenance of pretreatment technology, pollution control or construction of appropriate containment devices, designed to reduce, eliminate or prevent the introduction of pollutants into the treatment works;
  3. Requirements for the development and implementation of accidental discharge/slug control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated or non-routine discharges;
  4. Requirements for the development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
  5. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
  6. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
  7. Other conditions as deemed appropriate by the control authority to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

Section 3. Appeals. The control authority shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the control authority to reconsider the terms of a wastewater discharge permit within thirty days of notice of issuance of the discharge permit.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. If the control authority fails to act within thirty days of receipt of the request, the request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.
- E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the circuit court for Linn County, state of Oregon within sixty days from the date of the decision.

Section 4. Modification. The control authority may modify the wastewater discharge permit for good cause 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 wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating the permitted discharge poses a threat to the POTW, POTW personnel, the public or the receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater 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 wastewater discharge permit.

Section 5. Transfer. Wastewater discharge permits may not be assigned or transferred to a new owner and/or operator.

Section 6. Revocation. The control authority may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the control authority of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the control authority of changed conditions pursuant to Article X, Section 5;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring or other reports;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the control authority timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application; or
- L. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit of this chapter.

Wastewater discharge permits shall be voidable upon cessation of operations. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

Section 7. Reissuance. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit re-issuance by submitting a complete permit application, in accordance with Article VIII, Section 4, a minimum of sixty days prior to the expiration of the user's existing wastewater discharge permit.

Section 8. Regulation of waste received from other jurisdictions.

- A. If another jurisdiction, or user located within another jurisdiction, contributes wastewater to the POTW, the control authority shall enter into an inter-jurisdictional agreement with the contributing jurisdiction.
- B. Prior to entering into an agreement required by subsection A of this section, the control authority shall request the following information from the contributing jurisdiction:
  - 1. A description of the quality and volume of wastewater discharged to the POTW by the contributing jurisdiction;
  - 2. An inventory of all users located within the contributing jurisdiction and discharging to the POTW; and
  - 3. Such other information as the control authority may deem necessary.
- C. An inter-jurisdictional agreement, as required by subsection A of this section, shall contain, at a minimum, the following conditions:
  - 1. A requirement for the contributing jurisdiction to adopt a sewer use ordinance which is at least as stringent as this chapter and local limits which are at least as stringent as those set out in Article VI, Section 5. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance and/or local limits;
  - 2. A requirement for the contributing jurisdiction to submit a revised user inventory on at least an annual basis;
  - 3. A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing jurisdiction; which of this activities will be conducted

- by the control authority; and which of these activities will be conducted jointly by the contributing jurisdiction and the control authority;
4. A requirement for the contributing jurisdiction to provide the control authority with access to all information the contributing jurisdiction obtains as part of its pretreatment activities;
  5. Limits on the nature, quality, and volume of the contributing jurisdiction's wastewater at the point where it discharges to the POTW;
  6. Requirements for monitoring the contributing jurisdiction's discharge;
  7. A provision insuring the control authority access to the facilities of users located within the contributing jurisdiction's boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the control authority; and
  8. A provision specifying remedies available for breach of the terms of the inter-jurisdictional agreement.

## Article X Reporting Requirements

### Section 1. Baseline monitoring reports.

- A. Within either one hundred eighty days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the control authority a report which contains the information listed in subsection B of this section. At least ninety days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the control authority a report which contains the information listed in subsection B of this section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- B. Users described above shall submit the information set forth below.
  1. Identifying Information. The name and address of the facility, including the name of the operator and owner.
  2. Environmental Permits. A list of any environmental control permits held by or for the facility.
  3. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
  4. Flow Measurement. 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 wastestream formula set out in 40 CFR 403.6(e).
  5. Measurement of Pollutants.
    - a. The categorical pretreatment standards applicable to each regulated process.
    - b. The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the control authority) of regulated pollutants in the discharge from each regulated process. 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 analyzed in accordance with procedures set out in Section 10 of this Article.
    - c. Sampling must be performed in accordance with procedures set out in Section 11 of this Article.
  6. Certification. A statement, reviewed by the user's authorized signatory and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M)

and/or additional pretreatment, is required to meet the pretreatment standards and requirements.

7. **Compliance Schedule.** If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 2 of this Article.
8. **Signature and Certification.** All baseline-monitoring reports must be signed and certified in accordance with Article VIII, Section 6.

**Section 2. Compliance schedule progress reports.** The following conditions shall apply to any schedule required by this chapter or the control authority:

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

**Section 3. Report on compliance with categorical pretreatment standard deadline.** Within ninety days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the control authority a report containing the information described in Section 1 (B)(4) through (6) of this Article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Article VIII, Section 6).

**Section 4. Periodic compliance reports.**

- A. All significant industrial users shall, at a frequency determined by the control authority but in no case less than every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Article VIII, Section 6.
- B. 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.
- C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the control authority, using the procedures prescribed in

Sections 10 and 11 of this Article, the results of this monitoring shall be included in the report.

Section 5. Report of changed conditions. Each user must notify the control authority of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least thirty days before the change.

- A. The control authority may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Article VIII, Section 5.
- B. The control authority may issue a wastewater discharge permit under Article VIII, Section 7, or modify an existing wastewater discharge permit under Article IX, Section 4, in response to changed conditions or anticipated changed conditions.
- C. No user shall implement the planned changed condition(s) until and unless the control authority has responded to the user's notice.
- D. For purposes of this requirement, significant changes include, but are not limited to, flow changes of twenty percent or greater, and the discharge of any previously unreported pollutants.

Section 6. Reports of potential problems.

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW (including a violation of the prohibited discharge standards in Article VI, Section 2), the user shall immediately telephone and notify the control authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- B. Within five days following such discharge, the user shall, unless waived by the control authority, submit 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, civil penalties or other liability which may be imposed pursuant to this chapter.
- C. Failure to notify the control authority of potential problem discharges shall be deemed a violation of this chapter.
- D. 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 a discharge described in subsection A of this section. Employers shall ensure that all employees are advised of the emergency notification procedure.

Section 7. Reports from unpermitted users. All users not required to obtain a wastewater discharge permit shall provide appropriate reports as may be required by the control authority.

Section 8. Notice of violation - repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the control authority as soon as possible but no later than twenty-four hours of becoming aware of the violation. The user shall also immediately repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within the time period specified by the control authority but at no time greater than thirty days after becoming aware of the violation. The user may not be required to resample if the control authority monitors at the user's facility at least once a month, or if the control authority samples between the user's initial sampling and when the user receives the results of this sampling.

Section 9. Notification of the discharge of hazardous waste.

- A. Any user who commences the discharge of hazardous waste shall notify the control authority, the EPA Regional Waste Management Division Director, and state hazardous waste authorities (in writing) of any discharge into the POTW of a substance which, if

otherwise disposed of, would be a hazardous waste under 40 CFR Part 26.1. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste numbers, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents in the wastes, an estimation of the mass and concentration of such constituents contained in the waste-stream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months. All notifications must take place no later than one hundred eighty days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under Section 5 of this Article. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of Sections 1, 3 and 4 of this Article.

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

**Section 10. Analytical requirements.** All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

**Section 11. Sample collection.**

- A. Except as indicated in subsection B of this section, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the control authority may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- B. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

Section 12. Timing. Written reports will be deemed to have been submitted on the date post-marked. For reports that are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

Section 13. Record keeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the control authority, or where the user has been specifically notified of a longer retention period by the control authority.

#### Article XI Compliance Monitoring

Section 1. Right of entry - inspection and sampling. The control authority shall have the right upon presentation of proper credentials to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any wastewater discharge permit or order issued hereunder. Users shall allow the control authority ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, including photographing or videotaping on the user's premises, and the performance of any additional duties.

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

Section 2. Search warrants. If the control authority has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the control authority designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the control authority may seek issuance of a search warrant from the municipal court of the city, or any other court of competent jurisdiction.

#### Article XII Confidential Information

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

### Article XIII Publication of Users in Significant Noncompliance

Publication of users - in significant noncompliance. The control authority shall publish annually, in the largest weekly newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria: 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH;
- C. Any other discharge violation that the control authority believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of the city personnel or the general public);
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the control authority's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety days of the schedule date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within thirty days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s) that the control authority determines will adversely affect the operation or implementation of the local pretreatment program

### Article XIV Administrative Enforcement Remedies

Section 1. Notification of violation. When the control authority finds that a user has violated (or continues to violate) any provision of Article VII or subsequent Articles pertaining to such, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the control authority shall serve upon a representative of the user, such representative meeting the criteria of authorized signatory, a written notice of violation. Within five days of the receipt of this notice, an explanation of the

violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the control authority. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the control authority to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

Section 2. Consent orders. The control authority may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 4 and 5 of this Article and shall be judicially enforceable.

Section 3. Show cause hearing. The control authority may order a user which has violated or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the control authority and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fourteen days prior to the hearing. Such notice shall be served on a representative of the user who meets the criteria of an authorized signatory. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user. In the event that a user fails to appear at a show cause hearing, without good cause for the failure to appear, the control authority shall proceed to take such actions or orders as may be appropriate under the circumstances. Failure of the user to receive actual personal notice, subject to the above notice requirements, shall not prevent the control authority to proceed with the hearing and take such actions that are otherwise appropriate.

Section 4. Compliance orders. When the control authority finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the control authority may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a national pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

Section 5. Cease and desist orders. When the control authority finds that a user has violated (or continues to violate) any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the control authority may issue an order to the user directing it to cease and desist all such violations and directing the user to:

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

Section 6. Administrative fines.

- A. When the control authority finds that a user has violated or continues to violate any provision of Article VII or subsequent Articles pertaining to such, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the



- control authority may fine such user in an amount not to exceed one thousand dollars. Any and all such fines shall be assessed on a per violation, per day basis. The control authority may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine, as well as other expenses actually associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages or fines incurred by the control authority.
- B. Interest shall accrue on any unpaid charges, fines, or penalties after sixty days from their assessment at the rate of nine percent per year. The city recorder shall enter the assessments in the City lien docket, which assessments shall be liened and charged upon the respective properties against which they are placed. Such liens shall be first and prior to all other liens or encumbrances, insofar as the laws of Oregon allow, and shall be foreclosed as provided by law.
  - C. Users desiring to dispute such fines must file a written request for the control authority to reconsider the fine along with full payment of the fine amount within thirty days of being notified of the fine. The control authority shall convene a hearing on the matter within thirty days of receiving the request from the user. In the event the user's appeal is successful, the payment shall be returned to the user. In the event that the user's appeal is unsuccessful, the user may appeal to the city council by filing a written request with the City Manager within fifteen days of the decision upon reconsideration of the control authority. The City Manager shall schedule a hearing upon the appeal before the city council within sixty days from the date the appeal is filed. The appeal can be heard at a regular or special meeting of the city council, with notice to be given to the user no less than ten calendar days prior to the hearing. The hearing shall be conducted in a summary manner, with all parties allowed the right to present evidence. Neither the decision of the control authority, nor the payment of the fine imposed by the control authority, shall be stayed during the pendency of the appeal. In the event that the user's appeal is successful before the city council, the payment of the fine shall be returned to the user.
  - D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

Section 7. Emergency suspensions. The control authority may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The control authority may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

- A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the control authority shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The control authority shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the control authority that the period of endangerment has passed, unless the termination proceedings in Section 8 of this Article are initiated against the user.
- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the control authority within five days.

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

Section 8. Termination of discharge. Any user that violates the conditions in Article VI, Section 6 of this chapter is subject to discharge termination. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 3 of this Article why the proposed action should not be taken. Exercise of this option by the control authority shall not be a bar to, or a prerequisite for, taking any other action against the user.

Article XV  
Judicial Enforcement Remedies

Section 1. Injunctive relief. When the control authority finds that a user has violated (or continues to violate) any provision of Article VII or subsequent Articles pertaining to such, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the control authority may petition the circuit court for Linn County, Oregon through the control authority's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. The control authority may also seek such other action as is appropriate for legal and/or equitable relief, including requirements for the user to conduct environmental remediation and/or make reparations for damages to the POTW. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

Section 2. Civil penalties.

- A. A user who has violated or continues to violate any provision of Article VII or subsequent Articles pertaining to such, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the control authority for a maximum civil penalty of ten thousand dollars, but not less than one thousand dollars per violation, per day.
- B. The control authority may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages or fines incurred by the control authority.
- C. In determining the amount of civil liability, the court shall be taken 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 user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

Section 3. Criminal prosecution.

- A. A user who has intentionally or knowingly violated any provision of Article VII or subsequent Articles pertaining to such, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed five thousand dollars per violation, per day, or imprisonment for not more than one year, or both.
- B. A user who has intentionally or knowingly introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least five thousand dollars and/or be subject to imprisonment for one year. The penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
- C. A user who intentionally or knowingly makes any false statements, representations or certifications in any application, record, report plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, or order issued hereunder, or who falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this chapter shall be guilty of a misdemeanor punishable by a fine not to exceed five thousand dollars per violation, per day, or imprisonment for not more than one year, or both.

Section 4. Remedies nonexclusive. The remedies provided for in this chapter are not exclusive. The control authority may take any, all or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the control authority's enforcement response plan. However, the control authority may take other action against any user when the circumstances warrant.

Article XVI  
Affirmative Defenses to Discharge Violations

Section 1. Upset.

- A. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection C of this section are met.
- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - 1. An upset occurred and the user can identify the cause(s) of the upset;
  - 2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  - 3. The user has submitted the following information to the control authority as soon as possible but no later than twenty-four hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days:
    - a. A description of the indirect discharge and cause of noncompliance,
    - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue, and
    - c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- F. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

Section 2. Prohibited discharge standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in Article VI, Section 2 if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or (b) no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the control authority was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

Section 3. Bypass.

- A. For the purposes of this section,
  - 1. "Bypass" means the intentional diversion of wastestreams 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 the 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 subsections C and D of this section.
- C.
  - 1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the control authority, at least ten days before the date of the bypass, if possible.
  - 2. A user shall submit oral notice to the control authority of an unanticipated bypass that exceeds applicable pretreatment standards as soon as possible but no later than twenty-four hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The control authority may waive the written report on a case-by-case basis if the oral report has been received within twenty-four hours.
- D.
  - 1. Bypass is prohibited, and the control authority may take an enforcement action against a user for a bypass, unless:
    - a. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
    - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
    - c. The user submitted notices as required under subsection C of this section.
  - 2. The control authority may approve an anticipated bypass, after considering its adverse effects, if the control authority determines that it will meet the three conditions listed in subsection (D)(1) of this section.

#### Article XVII Miscellaneous Provisions

Pretreatment charges and fees. The control authority may adopt reasonable fees for reimbursement of the costs of development and administration of the control authority's pretreatment program, which may include:

- A. Fees for wastewater discharges permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;
- D. Fees for filing appeals; and
- E. Other fees as the control authority may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the control authority.

#### ARTICLE XVIII Protection from Damage

Section 1. No unauthorized person shall maliciously, willfully, intentionally, knowingly, recklessly, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or

equipment which is a part of the sewage works. Any person violating this provision shall be subject to the criminal laws of the City of Sweet Home and State of Oregon.

Section 2. It shall be unlawful to permit the growth of hydrotropic species of trees such as members of the populus and salix genera which have root systems that tend to be attracted to and enter into the City's sewer system, within 25 feet of any public sewer. Trees located farther than 25 feet from a city sewer lateral shall be removed if it is determined that the root system may interfere with a public sewer. Removal of such trees existing on property other than public rights-of-way shall be at the property owner's expense.

#### ARTICLE XIX Powers and Authority of Inspectors

Section 1. The Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this ordinance. The Director or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

Section 2. While performing necessary work on private properties referred to in Article XIX, Section 1, above, the Director or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company; and the company shall be held harmless for injury or death to the city employees; and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging or sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Article VI, Section 10.

Section 3. The Director and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of but not limited to inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

#### ARTICLE XX Sewer User Charges

Section 1. User charges shall be levied on all users of the POTW, and set by resolution. Such charges shall cover the cost of operation and maintenance, replacement, and other administrative costs of such POTW. The user charge system shall distribute these costs in proportion to each user's contribution to the wastewater loading of the POTW.

Section 2. There shall be assigned to each multi-family residential number of ERU's and this number shall represent the ratio of the cost incurred by the wastewater from the user to the cost incurred by the wastewater from the residential dwelling unit.

Section 3. The user charge shall be calculated by multiplying the total number of ERU's for each user by a constant cost factor. This cost factor shall be set by resolution.

Section 4. Should any user believe that that he had been incorrectly assigned a number of ERU's, that user may apply to city council for review of his wastewater contribution.

Section 5. If it has been determined by the City that a user's wastewater contribution is incorrectly assigned, the City shall reassign a more appropriate value to that user and shall notify that user of such reassignment.

Section 6. Records of all assigned wastewater contributions forming the basis of the charges shall be kept on file with the city recorder and shall be open for public inspection.

Section 7. The sewer user charge for all occupied property shall begin 60 days after the sewer main becomes available or the day that connection is made to the public sewer, whichever occurs first. There shall be no user charge for unoccupied property. Once the sewer user charge has commenced no credit shall be given for vacancy unless it can be demonstrated by the sewer user that water service to that property from any and all sources has been discontinued. The regular user charge shall be reinstated as soon as water service to that property from any source has begun. If the date upon which the user charge is commenced or altered does not fall on the first day of a billing period, the rates shall be appropriately prorated.

Section 8. Industrial sewer users and commercial sewer users shall be charged on the basis of sewage flow in units of 100 cubic feet being equal to one unit plus a monthly customer charge.

Section 9. The rate per unit for and the monthly customer charge for industrial and commercial users shall be set by resolution.

Section 10. Non flat rate customers with sewage strengths greater than average residential sewage shall pay a surcharge for the strength loading in excess of average residential strength loading.

Section 11. The surcharge for extra strength loadings shall be set by resolution.

Section 12. Once a year each user shall be notified, in conjunction with a regular bill, of that portion of the user charges which are attributable to the operation, maintenance and replacement of the wastewater collection, treatment and disposal system. In lieu of the above notification requirement a newspaper public notice with a posting of said notice at City Hall will satisfy the notice requirement. The notice will be given during the month of May each year.

#### ARTICLE XXI Review and Revision of Rates

The sewer user charges established in Article III of this ordinance shall, as a minimum, be reviewed annually and revised periodically to reflect actual costs of operation, maintenance and replacement of the POTW and to maintain the equitability of the user charges with respect to proportional distribution of the costs of operation and maintenance in proportion to each user's contribution to the total wastewater loading of the POTW.

#### ARTICLE XXII Responsibility, Payment Delinquencies and Penalties

Section 1. The person who owns the premises served by the sewerage system shall be responsible for payment of the sewer user charge for that property notwithstanding the fact that the property may be occupied by a tenant or other occupant who may be required by the owner to pay said charges.

Section 2. The users of the sewerage system shall be billed for services in accordance with the rate schedule set by resolution as authorized by this ordinance.

Section 3. The date of billing shall be established by the rate setting resolution as provided in Article XX of this ordinance.

Section 4. Sewer user charges shall be due and payable as established by the rate setting resolution provided in Article XX of this ordinance.

Section 5. Sewer user charges levied in accordance with this ordinance shall be a debt due to the City and a lien upon the property. If this debt is not paid within 30 days after it shall be due and payable, it shall be

deemed delinquent and may be recovered by civil action in the name of the city against the property owner, the person, or both.

Section 6. Interest at the rate of 1% per month shall accrue on all accounts from the date of delinquency. In addition, a penalty shall be assessed at the rate of \$2.00 per month from the date of delinquency, which shall be added to the account and shall accrue interest in the same manner as all other delinquent charges beginning the following month.

Section 7. In the event of failure to pay sewer charges after they have become delinquent, the City shall have the right to remove or close sewer connections and enter upon the property for accomplishing such purposes. The expense of such discontinuance, removal, or closing, as well as the expense of restoring service shall be a debt due to the City and a lien upon the property and may be recovered by civil action in the name of the City against the property owner, the person, or both.

Section 8. Sewer service shall not be restored until all charges, including interest accrued and the expense of removal, closing, and restoration shall have been paid.

Section 9. Changes of ownership or occupancy of premises found delinquent shall not be cause of reducing or eliminating these penalties.

Section 10. If a sewer user charge is not paid when due, the City may shut off water service until all delinquent sewer user charges are fully paid.

#### ARTICLE XXIII Handling of Funds

Section 1. Bills for sewer user charges shall be mailed to the address specified in the application for permit to make the connection unless or until the different owner or user of the property is reported to the Finance Department.

Section 2. All collections of sewer user charges shall be made by the City Recorder by and through the Finance Department. Sewer user charges shall be computed as provided in Article XX of this ordinance and shall be payable as provided in Article XXII of this ordinance.

Section 3. The City Recorder is hereby directed to deposit in the Sewer Fund all of the gross revenues received from charges, rates, and penalties collected for the use of the sewerage system as herein provided.

Section 4. The revenues thus deposited in the Sewer Fund shall be used exclusively for the operation, maintenance, and repair of the sewerage system; administration costs; expenses of collection of charges imposed by this ordinance and payments of the principle and interest on any debts of the sewerage system of the city.

#### ARTICLE XXIV Reserved for Industrial Cost Recovery

**ARTICLE XXV**  
**Infiltration and Inflow**

Section 1. All property owners identified by the City as contributors to excessive or improper infiltration or inflow into the treatment works shall be advised of their infiltration and inflow problems. This article does not apply to discharges as described in Article VI.

Section 2. All such situation properties shall be provided a twelve-month grace period in which to correct the infiltration and inflow problems as identified said twelve-month grace period to extend from the date of notification.

Section 3. By the end of the twelve-month grace period, each property owner shall notify the City that corrective actions have been taken or are in progress, which action shall be specified in the notification to the City.

Section 4. A property owner failing to notify the City of corrective actions prior to the end of the twelve-month grace period shall be subject to termination of service, without further notice, and water service, if provided by the City, shall be immediately discontinued and shut off until the violation shall have been corrected in accordance with federal, state and City regulations and laws.

Section 5. In the event any instance of excessive or improper infiltration or inflow into the treatment works of the City shall continue beyond the twelve-month grace period, it is declared that such continuing infiltration or inflow is a public nuisance, that the City shall have the right to abate such public nuisance, and to enter upon any private property within the city for such purpose and shall assess the cost of such abatement as a lien against the property upon which such continuing infiltration and inflow occurs. Such assessment shall be levied by the filing of statement of such costs together with the description of the name of the owner(s) thereof with the City Recorder, whereupon the City Recorder shall forthwith enter such assessment as a lien against such property in the lien docket of the City. An administration fee of twenty-five dollars shall be charged and collected by the City in addition to the other costs of abatement to cover part of the cost of abatement.



**ARTICLE XXVI**  
**Appeals on Rates**

Appeals on Rates established by the City shall be made in writing to the City Manager within 90 days of the billing of said use fee. The City Manager shall respond in writing within 90 days of receipt of the appeal. If the user(s) wish to appeal further, they shall request in writing that the City Manager place their specific appeal on the next scheduled regular City Council session. The decision of the City Council shall be final.

**ARTICLE XXVII**  
**Penalties**

Section 1. Any person found to be in violation of any provision of this ordinance, except Article VII or subsequent Articles pertaining to such, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, and Article XVIII, may be served by the City with writing notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Section 2. Violation of this ordinance constitutes an infraction and may be prosecuted under the provision of Sweet Home Municipal Code Chapter 9.36, as now enacted or hereafter amended except Article VII or subsequent Articles pertaining to such, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, and Article XVIII, Section 1.

Section 3. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss or damage that the City sustains by reason of such violation.

**ARTICLE XXVIII**  
**Validity**

Section 1. All Sweet Home Ordinances or parts of ordinances in conflict herewith are hereby repealed including Ordinances 1023 and 1031.

Section 2. The repeal of an ordinance, or part thereof, by Section 1 hereof shall not preclude action against a person or property that is in violation of said ordinance before the effective date of the repeal.

Section 3. The invalidity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance, which can be given effect without such invalid part or parts.

Passed by the Council and approved by the Mayor this 14th day of December, 1999.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
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City Manager - Ex Officio City Recorder