

City of St. Helens
ORDINANCE NO. 3233

AN ORDINANCE ESTABLISHING A COMPREHENSIVE SEWER USE
ORDINANCE FOR USERS OF THE CITY OF ST. HELENS' PUBLICLY
OWNED TREATMENT WORKS (POTW) TO COMPLY WITH FEDERAL
AND STATE ENVIRONMENTAL REGULATIONS.

WHEREAS, on or about February 25, 2016, Oregon Department of Environmental Quality (OR-DEQ) performed a regulatory audit of the City's Industrial Pretreatment Program; and

WHEREAS, the OR-DEQ audit report required that the City update its legal authority (Sewer Use Ordinance) to include language related to submission of all monitoring data, and to establish legal authority to develop and implement Sector Control Programs based on Best Management Practices (BMPs); and

WHEREAS, during the course of developing the legal authority required by OR-DEQ, City staff discovered outdated and conflicting language in the established Sewer Use Ordinance(s); and

WHEREAS, OR-DEQ advised the City to establish a comprehensive Sewer Use Ordinance to repeal and replace the outdated and conflicting language in the established Sewer Use Ordinance(s) to create a clear and concise legal authority document.

NOW, THEREFORE, THE CITY OF ST. HELENS ORDAINS AS FOLLOWS:

Section 1. St. Helens Ordinance Nos. 2570, 2576, 2584, 2623, 2630, and 3169 are hereby repealed and replaced by St. Helens Municipal Ordinance No. 3233.

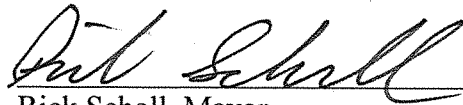
Section 2. St. Helens Municipal Code Chapters 13.12 and 13.16 are hereby deleted and replaced with Chapter 13.14, established by Ordinance No. 3233.

Read the first time:	September 19, 2018
Read the second time:	October 3, 2018

APPROVED AND ADOPTED by the City Council this 3rd day of October, 2018, by the following vote:

Ayes: Locke, Carlson, Conn, Morten, Scholl

Nays: None


Rick Scholl, Mayor

ATTEST:


Kathy Payne, City Recorder

ORDINANCE NO. 3233

COMPREHENSIVE SEWER USE ORDINANCE

GENERAL SEWER USE AND INDUSTRIAL PRETREATMENT REGULATIONS

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SECTION 1 – GENERAL PROVISIONS

1.1 Purpose and Policy.

- A. This ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works (POTW) for the City of St. Helens and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code 1251 et seq.), the General Pretreatment Regulations (40 Code of Federal Regulations Part 403) and the Oregon Administrative Rules (OAR) Chapter 340. The objectives of this Ordinance are:
- (1) To address inconsistencies, conflicts, and redundancies in St. Helens Municipal Code (SHMC) Title 13:
 - (a) Chapter 13.12-SEWER USE REGULATIONS; and
 - (b) Chapter 13.16-WASTEWATER PRETREATMENT REGULATIONS;
 - (2) Replace SHMC Title 13 Chapters 13.12 and 13.16 with a single comprehensive Chapter 13.14;
 - (3) Repeal Ordinances 2570, 2576, 2584, 2623, 2630, and 3169;
 - (4) To provide control of construction and use of the POTW;
 - (5) To prevent the introduction of pollutants into the POTW that will interfere with operation of the system;
 - (6) To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
 - (7) To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the health and safety of the general public;
 - (8) To promote reuse and recycling of industrial wastewater and sludge from the POTW;
 - (9) To provide requirements for permitting discharge of wastewater into the POTW, in accordance with local, state and federal requirements and standards;
 - (10) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW in compliance with state and federal requirements; and
 - (11) To assure the self-sufficiency of the POTW; and

- (12) 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.

B. This ordinance shall apply to all persons and contributing jurisdictions using the POTW. The ordinance authorizes the issuance of Industrial 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.

1.2 Administration.

Except as otherwise provided herein, the Superintendent shall administer and implement the provisions of this ordinance and the Superintendent or the City Attorney shall direct enforcements to be taken under the program. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other City personnel. The City's Industrial Pretreatment Operation and Program Implementation Manual, and any amendments thereto, is adopted and incorporated by reference. If there is a conflict between the provisions in the manual and this ordinance, the provisions in this ordinance apply. The Superintendent has the authority to update the manual. The City council adopts any rules or requirements that are necessary to implement the pretreatment program or to comply with any federal, state, or City requirements.

1.3 Abbreviations.

The following abbreviations shall have the designated meanings:

ASP/SCP	Accidental Spill Prevention/Slug Control Plan
BOD	Biochemical Oxygen Demand
BMP	Best Management Practice
BMR	Baseline Monitoring Report
CFR	Code of Federal Regulations
CIU	Categorical Industrial User
COD	Chemical Oxygen Demand
DEQ	Oregon Department of Environmental Quality
EPA	U.S. Environmental Protection Agency
gpd	gallons per day
LC50	Lethal Concentration for fifty percent (50%) of the test organisms
IU	Industrial User
L	Liter
mg	milligrams
mg/L	milligrams per Liter
NPDES	National Pollutant Discharge Elimination System
NDCIU	Non-Discharging Categorical Industrial User
NSCIU	Nonsignificant Categorical Industrial User

O&M	Operation and Maintenance
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
SIU	Significant Industrial User
SNC	Significant Noncompliance
SWDA	Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)
TSS	Total Suspended Solids
USC	United States Code

1.4 Definitions.

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

- A. **“Accidental Spill Prevention/Slug Control Plan (ASP/SCP)”** Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2.5 of this ordinance. A slug discharge is any discharge on a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference of pass through, or in any other way violates the POTW’s regulations Local Limits or permit conditions.
- B. **“Act” or “the Act”** means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.
- C. **“Approval Authority”** means the State of Oregon Department of Environmental Quality (DEQ).
- D. **“Authorized Representative of the User”** means:
 - (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, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has

been assigned or delegated to the manager in accordance with corporate procedures.

- (2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) If the User is a federal, state or local governmental facility: a superintendent or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in subsections (D)(1) through (3) of this definition may designate another authorized representative if the authorization is in writing by the individual described in subsections (D)(1) through (3) of this definition, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

E. **“Best Management Practices (BMPs)”** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.5 of this ordinance. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, drainage from raw materials storage, or alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.

F. **“Biochemical Oxygen Demand (BOD)”** means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty (20) degrees centigrade, usually expressed as a concentration (e.g., mg/L).

G. **“Building Drain”** means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, being five (5) feet outside the inner face of the building wall.

H. **“Building Sewer”** means that part of the horizontal piping of a drainage system which extends beyond the end of the building drain and receives the discharge of the building drain and conveys it to a public sewer, private sewer, or individual sewage disposal system. Building Sewers are also referred to as “Service Laterals.”

I. **“Categorical Pretreatment Standard”** or **“Categorical Standard”** means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of Users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405 – 471.

J. **“Categorical Industrial User”** or **“CIU”** means an Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

- K. “**Chemical Oxygen Demand**” or “**COD**” means a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- L. “**City**” means the City of St. Helens, Oregon, a municipal corporation of the state of Oregon, acting through its City council or any board, committee, body, official, or person to whom the council shall have lawfully delegated the power to act for or on behalf of the City.
- M. “**City Administrator**” means the City Administrator of the City of St. Helens, Oregon, or the City Administrator’s designee.
- N. “**Combined Sewer**” means a sewer that is designated as both a sanitary sewer and a storm sewer.
- O. “**Composite Sample**” means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
- P. “**Control Authority**” means the City of St. Helens, Oregon.
- Q. “**Cooling Water**” means the water discharged from any User to which the only pollutant added is heat.
- R. “**Daily Maximum**” means the arithmetic average of all effluent samples for a pollutant collected during a calendar day.
- S. “**Daily Maximum Limit**” means the maximum allowable discharge of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day, except for pH.
- T. “**Environmental Protection Agency (EPA)**” means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Superintendent, or other duly authorized official of said agency.
- U. “**Existing Source**” means any source of discharge that is not a New Source.
- V. “**FOG**” means fats, oils and grease.
- W. “**FOG, nonpolar**” means fats, oils and grease that are petroleum based.
- X. “**FOG, polar**” means fats, oils and grease generated from animal and vegetable origins.

- Y. “**Garbage**” means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.
- Z. “**Grab Sample**” means a sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.
- AA. “**Hauled Waste**” means any trucked or hauled wastes, including septic tank wastes, chemical toilet wastes, and non-septic wastes with hazardous characteristics.
- BB. “**Indirect Discharge**” or “**Discharge**” means the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.
- CC. “**Industrial Wastes**” means the liquid wastes from industrial manufacturing processes, trade, or business, as distinct from sanitary sewage.
- DD. “**Instantaneous Limit**” means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.
- EE. “**Interceptor**” means a device designed and installed so as to adjust, separate and retain deleterious, hazardous or undesirable matter from wastewater and to permit normal sewage or liquid wastes to discharge from the User’s premises into the POTW.
- FF. “**Interference**” means 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; and therefore, is a cause of a violation of the City’s NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory provisions and regulations or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
- GG. “**Local Limit**” means specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).
- HH. “**Manual**” or “**the manual**” refers to the City’s Industrial Pretreatment Operation and Program Implementation Manual, and any amendments thereto.

- II. **“Medical Waste”** means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- JJ. **“Monthly Average”** means the arithmetic mean of the effluent samples collected during a calendar month.
- KK. **“Monthly Average Limit”** means the limit that applies to the monthly average of all effluents.
- LL. **“National Pretreatment Standard”** means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to industrial Users. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5.
- MM. **“Natural Outlet”** means any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.
- NN. **“New Source”** means:
- (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 source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
 - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
 - (2) Construction on a site at which an existing source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (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 cased to begin, as part of a continuous onsite 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 buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Source facilities or equipment; or
- (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

OO. “**Noncontact Cooling Water**” means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

PP. “**Nondischarging Categorical Industrial User (NDCIU)**” means industries that have industrial processes that would otherwise be subject to national categorical Pretreatment Standards and Requirements, including industries with zero discharge categorical standards. NDCIUs that have a potential to discharge must be issued no-discharge control mechanisms.

QQ. “**Non-Residential User**” means any person who is not a residential User.

RR. “**North American Industry Classification System (NAICS)**” means the standard used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy, which was developed under the auspices of the Office of Management and budget (OMB) and adopted in 1997 to replace the Standard Industrial Classification (SIC) System.

SS. “**Pass Through**” means 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.

TT. “**Person**” means any individual, owner, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

- UU. “**pH**” means a measure of the acidity or alkalinity of a solution, expressed in standard units.
- VV. “**Pollutant**” means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- WW. “**Pollution**” means the degradation of the chemical, physical, biological, or radiological quality of the ground, surface, subsurface, or storm drainage waters by man, or the activities thereof.
- XX. “**Potential to Discharge**” means hard plumbing connected to the POTW’s sanitary sewer. This includes plumbing with shut-off valves and plumbing that has been plugged with temporary or removable plugs. Plumbing that has been permanently disconnected or cemented shut would not constitute a potential to discharge.
- YY. “**Pretreatment**” means 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.
- ZZ. “**Pretreatment Requirements**” means any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.
- AAA. “**Pretreatment Regulations**” means prohibited discharge regulations and standards, categorical Pretreatment Standards, and Local Limits.
- BBB. “**Prohibited Discharge Standards**” or “**Prohibited Discharges**” means absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.5 of this ordinance.
- CCC. “**Properly Shredded Garbage**” means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.
- DDD. “**Publicly Owned Treatment Works (POTW)**” means a treatment works, as defined by Section 212 of the Act (33 U.S.C. 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.
- EEE. “**Residential User**” means the occupant or lessee of a residence intended for permanent or semi-permanent occupancy.

FFF. **“Return to Compliance”** means User is complying with the pretreatment requirements outlined in a discharge permit, compliance schedule, or other agreement or order as outlined by the City and is discharging in compliance with applicable effluent limits.

GGG. **“Sanitary Sewer”** means a conduit intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface water that are not intentionally admitted.

HHH. **“Septic Tank Waste”** or **“Septage”** means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, cesspools, or other similar residential wastewater treatment system, or a holding tank when the system is cleaned or maintained.

III. **“Service Lateral”** means that part of the horizontal piping of a drainage system which extends beyond the end of the building drain and receives the discharge of the building drain and conveys it to a public sewer, private sewer, individual sewage disposal system. Service laterals are also referred to as **“Building Sewers”**.

JJJ. **“Sewer User”** means any person discharging wastewater into the publicly operated treatment works, whether that person be residential, non-residential, commercial, industrial or a Significant Industrial User.

KKK. **“Significant Industrial User (SIU)”** means (except as provided in subsection (3) of this definition):

- (1) An Industrial User subject to categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; or
- (2) An Industrial User that:
 - (a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - (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;
 - (c) Is designated as such by the City 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) The City may determine that an industrial User subject to categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N is a nonsignificant categorical industrial User rather than a Significant Industrial User on a finding that the industrial User never

discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

- (a) The industrial User, prior to the City’s finding, has consistently complied with all applicable categorical Pretreatment Standards and requirements;
 - (b) The industrial User annually submits the certification statement required in 40 CFR 403.12(q), signed and certified in accordance with Section 4.7 of this ordinance, together with any additional information necessary to support the certification statement; and
 - (c) The industrial User never discharges any untreated concentrated wastewater.
- (4) Upon a finding that a User meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW’s operation or for violating any Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from a User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

LLL. “**Slug Load**” or “**Slug Discharge**” means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 2.5 of this ordinance. A “slug discharge” is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge which had a reasonable potential to cause interference and pass through or in any way otherwise violate the POTW’s regulations, Local Limits or permit conditions.

MMM. “**Shall**” is mandatory; “**May**” is permissive.

NNN. “**Standard Industrial Classification (SIC) Code**” means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget, as amended from time to time.

OOO. “**STEP System**” means a septic tank effluent pump system.

PPP. “**Storm Water**” means any flow occurring during or following any form of natural precipitation, surface runoff or drainage, and resulting from such precipitation, including but not limited to snowmelt.

QQQ. “**Superintendent**” means the person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.

RRR. **“Total suspended solids (TSS)”** means 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.

SSS. **“Toxic Pollutants”** means any pollutant or combination of pollutants listed as toxic in regulations of regulations promulgated by the EPA, or as identified by the City Administrator.

TTT. **“Unit of Government”** means a county, City, district or other public corporation, commission, authority or entity organized and existing under state statute or City or county charter.

UUU. **“User”** or **“Industrial User”** means a source of indirect discharge.

VVV. **“Wastewater”** or **“Sewage”** means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, and groundwater, surface water, or storm water that may be present whether treated or untreated, which are contributed to the POTW.

WWW. **“Wastewater Discharge Permit”** means an Industrial Wastewater Discharge Permit issued pursuant to Section 4 of this ordinance.

XXX. **“Wastewater Treatment Plant”** or **“Treatment Plant”** means that portion of the POTW which is designed to provide treatment of sewage and wastewater.

SECTION 2 – GENERAL SEWER USE REQUIREMENTS

2.1 General Organization and Operation

Standards, Rules and Regulations. The standards, rules and regulations established in this ordinance are deemed to be consistent with the preservation of the public health, safety and welfare, to prevent pollution of the environment, and to fulfill the obligations of the City with respect to state and federal law and all rules and regulations adopted in conformance with same. The discharge into the system of any substance which exceeds the limitations contained herein, or which, in any manner, fails to conform with requirements this ordinance, is declared to be a public nuisance and a violation of this ordinance.

2.2 Use of Public Sewers Required

- A. It is unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the City of St. Helens or in any area under the jurisdiction of the City, any human or animal excretion, garbage, or other objectionable waste that creates an offensive odor or health hazard.

- B. It is unlawful to discharge to any natural outlet within the City of St. Helens or in any area under the jurisdiction of the City, any domestic, commercial, or industrial wastewater, or other polluted water, except where suitable treatment has been provided in accordance with provisions of this ordinance.
- C. Except as hereinafter provided, it is unlawful to construct any privy, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- D. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the City of St. Helens, and abutting on any street, alley, easement, or right-of-way in which there is now located or may in the future be located a sanitary sewer of the City, is required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper publicly operated treatment works in accordance with the provisions of this ordinance, within ninety (90) days after date of official notice to do so, provided that the sewer is within one-hundred-sixty 160 feet of the property line.
- E. The City engineer may require owner to design, build, and install a “STEP” system in order to gain access to the public sewer system. Owner will be required to enter into a sewer agreement with the City. Such agreement shall contain the following conditions:
 - (1) The design of the system, the equipment to be installed, and the materials to be used must be approved by the City engineer;
 - (2) The installation of the system must be approved by the City.;
 - (3) The costs of the system, directly and indirectly, shall be paid by owner. Special fees are authorized and are to be based on administrative costs incurred by the City. Such fees shall be set by resolution;
 - (4) When system is completed and installed, owner shall transfer ownership of pump, lines, and appurtenances thereto to the City. Owner shall execute easement, where the pump, lines and appurtenances are on private property;
 - (5) Owner shall be responsible for the maintenance and repair of such lines and equipment. Any such work must be done with the approval of the City engineer. Failure to maintain or repair shall be deemed to be a breach of the agreement;
 - (6) Owner shall pay all other fees as normally required by this chapter; and
 - (7) The City engineer may set any other conditions that are consistent with the purpose of this chapter.

2.3 Private Wastewater Disposal

- A. Where a public sewer or publicly operated treatment works is not available under the provisions of Section 2.2 of this ordinance the building sewer shall be connected to a private wastewater system complying with the provisions of this Section.
- B. Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit from the DEQ or another agency having jurisdiction.
- C. At such time, as a public sewer or POTW becomes available to a property served by a private wastewater disposal system, a connection shall be made to the public sewer or POTW in compliance with Section 2.2 of this ordinance and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be abandoned and after pumping filled with suitable material at the time of said connection.
- D. The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City.

2.4 Building Sewers and Connections

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the Superintendent.
- B. There shall be two (2) classes of building sewer permits:
 - (1) For residential and commercial service, and
 - (2) For service to establishments producing industrial or nonresidential wastes. The owner of the sewer or his or her duly authorized agent shall make application for the permit to the City. In either case, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the Superintendent. A permit and inspection fee shall be paid to the City at the time the application is filed. The City will require proof of receipt of a plumbing permit.
- C. 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.

- D. A separate and independent building sewer shall be provided for every building receiving residential and commercial service; 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. This prohibition does not apply to industrial service.
- E. Old building sewers, herein defined as those that have not been in use for two (2) years, may be used in connection with new buildings only when they are found, on examination and test by the City, to meet all requirements of this ordinance. The fee for a permit shall be in addition to the plumbing inspection fee mandated by the currently adopted State Building Code.
- F. 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 backfilling the trench, shall all conform to the requirements of the State Plumbing Code and other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
- G. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- H. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- I. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the City before installation.
- J. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the City or his representative.

- K. 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.
- L. Service laterals from building structure to the main sewer line shall be maintained by the owner of said structure in such a manner as to prevent infiltration of ground water into the collection system.
- M. The City shall have permission to enter all private properties through which the City holds an easement for purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the public operated treatment works lying within said easement and shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
- N. Service laterals constructed or comprised of any prohibited material, specifically bituminous fiber pipe, most commonly known as “Orangeburg pipe,” may constitute a threat to the efficient working and operation of the sanitary collection system and/or of the wastewater treatment plant and facilities of the City and may constitute a hazard to the health of the citizens of the City. In order to reduce or eliminate the risk, threat, and hazards posed by the existence of such unapproved pipe, prohibition is necessary. Building sewers constructed or compromised of unapproved materials, including “Orangeburg” or bituminous fiber pipe shall be deemed in need of repair or replacement when:
- (1) The service lateral is in failure as determined by the City engineer. A sewer lateral constructed of bituminous fiber pipe is considered to be in failure when certain conditions are present. Some of these conditions include, but are not limited to: collapsed pipe, blistering or peeling pipe, structure failure of the pipe, sags and bulges in line greater than 25 percent of pipe diameter, root intrusion, separated or leaking joints, visibly cracked or broken pipe, or pipe material deterioration.
 - (2) Any additions, repairs, alterations, renovations, replacements, or maintenance is made to the service lateral.

In all cases, the entire length of unapproved pipe material shall be removed and replaced and the costs and expenses incident to the repair and/or replacement of unapproved pipe shall be borne by the owner. Replacement or repaired pipe shall conform to current applicable regulations and the requirements of this code for building sewers.

2.5 Prohibited Discharge Standards.

- A. No person shall discharge or cause to be discharged any stormwater, surface water, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.
- B. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a public sanitary sewer.
- C. No person shall make connection of any cesspool, septic tank, seepage pit, or drain field to the public sewer or to a building sewer leading to such public sewer.
- D. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the City. Industrial cooling water or unpolluted process waters may be discharged, on approval of the City and appropriate state and federal agencies, to a storm sewer, combined sewer, or natural outlet.
- E. Discharge of Industrial Wastes into the POTW is prohibited unless in compliance with this ordinance. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater that 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.
- F. No person shall discharge or cause to be discharged any pollutant to any public sewers in a quantity which may interfere with the operation or performance of the City sewerage system, including but not limited to any of the following substances:
 - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using test methods specified in 40 CFR 261.21;
 - (2) Any wastewater having a pH less than 5.0 or more than 9.0, or which may otherwise cause corrosive structural damage to the POTW;
 - (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 (1/2) inch in any dimension;
 - (4) Pollutants, including oxygen-demanding pollutants (BOD, COD, 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) Any wastewater having a temperature greater than 131 degrees Fahrenheit (55 degrees Celsius), 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 104 degrees Fahrenheit (40 degrees Celsius);
- (6) Petroleum oil, nonbiodegradable cutting oil, or products of 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) Any trucked or hauled pollutants; except at discharge points designated by the City in accordance with Section 3.4 E of this ordinance;
- (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 as specifically approved by the Superintendent in compliance with applicable state or federal regulations;
- (11) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Superintendent;
- (12) Sludges, screenings, or other residues from the pretreatment of industrial wastes or industrial processes;
- (13) Any medical wastes, except as specifically authorized by the superintendent.
- (14) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (15) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- (16) Fats, oils, or greases of animal or vegetable origin in concentrations capable of bulking together and causing collection blockage;
- (17) Any discharge that, in the opinion of the Superintendent, could cause the City to violate the terms of its NPDES permit or could constitute a violation of State or Federal laws;

- (18) Discharges of AOX (absorbable organic halogens) and TCDD (2, 3, 7, 8-tetrachlorodibenzo-p-dioxin) shall be in compliance with the City's NPDES permit.

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.

2.6 National Categorical Pretreatment Standards.

- A. Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter 1, Subchapter N, Parts 405 – 471, and amendments thereto, which are adopted and incorporated herein by reference.
- B. When wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Superintendent shall impose an alternative limit in accordance with 40 CFR 403.6(e).
- C. A CIU may obtain a net gross adjustment to a categorical standard in accordance with the following paragraphs of this Section.
- (1) Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the City. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this Section are met.
- (2) Criteria
- (i) Either (a) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (b) The Industrial User demonstrates that the control system it proposes or uses to meet applicable Pretreatment Standards would, if properly installed and operated, meet the Standards in absence of pollutants in the intake waters.
- (ii) Credit for generic pollutants such as BOD, TSS, and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
- (iii) Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this Section.
- (iv) Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW

discharges. The City may waive the requirement if it finds that no environmental degradation will result.

2.7 State Pretreatment Standards.

Industrial Users must comply with all applicable State Pretreatment Standards and Requirements, which are located in Chapter 340 OAR and are hereby adopted and incorporated herein by reference.

2.8 Local Limits.

- A. Authority to Establish Local Limits: The City is authorized to establish and revise Local Limits pursuant to 40 CFR 403.5(c)
- B. Local Limits are established to protect against Pass Through and Interference. No nonresidential User shall discharge to the POTW wastewater containing pollutants in excess of limitations specified in an issued Industrial Wastewater Discharge Permit, any categorical Pretreatment Standards, or other pollutant limits established by the City.
- C. Unless the City determines that public health or safety require an earlier implementation, any modification the Superintendent establishes to the Local Limits in Table 2.8-1 shall not go into effect until thirty (30) days after reasonable notice of the changes is provided to the public and to affected dischargers who may discharge wastewater containing analytes or pollutants subject to such Local Limits.
- D. Where an industrial User is subject to a categorical Pretreatment Standard and a Local Limit for a given pollutant, the more stringent limit or applicable Pretreatment Standard shall apply.
- E. The Local Limits in Table 2.8-1 apply at the point where the wastewater is discharged into the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Superintendent may impose mass limitations in addition to the concentration-based limitations.

Table 2.8-1:

Analyte / Pollutant	Daily Maximum Concentration Limit
Arsenic	0.13 mg/L
Cadmium	0.05 mg/L
Chromium	1.3 mg/L
Copper	0.54 mg/L
Cyanide	0.13 mg/L
Lead	1.3 mg/L
Mercury	0.013 mg/L
Nickel	1.3 mg/L

Oil and Grease, Total	300	mg/L
pH, Minimum	5.0	S.U.
pH, Maximum	9.0	S.U.
Selenium	0.17	mg/L
Silver	0.03	mg/L
Zinc	0.25	mg/L

- F. The Superintendent may develop and implement Best Management Practices (BMPs) by ordinance or in Industrial Wastewater Discharge Permits to implement Local Limits and the requirements of Section 2.5 of this ordinance.

2.9 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 under any circumstances unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Superintendent may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

2.10 City's Right of Revision.

The City reserves the right to establish, by ordinance or in Industrial Wastewater Discharge Permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.

2.11 Special Agreement.

The City may enter into special agreements, or control mechanisms, with Users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a categorical Pretreatment Standard or federal pretreatment requirement. However, the User may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical Pretreatment Standard from the EPA in accordance with 40 CFR 403.13. A special agreement may contain requirements in addition to those specified in this ordinance.

Non-Discharging Categorical Industrial Users (NDCIUs) may be issued a no-discharge control mechanism or annual certification requirement. All Significant Industrial Users shall be controlled via permits or equivalent control mechanisms.

2.12 Tenant Responsibility.

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

SECTION 3 – PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities.

- A. Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 2 of this ordinance within the time limitations specified by EPA, the State, or the Superintendent, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Superintendent for review and shall be acceptable to the Superintendent before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this chapter.
- B. Appeals.
- (1) Users shall have 14 days to appeal the requirement to provide wastewater pretreatment.
 - (2) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
 - (3) In its petition, the User must indicate which wastewater Pretreatment Standards are objected to and the reasons for this objection.
 - (4) If the Superintendent fails to act within 15 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a pretreatment requirement shall be considered final administrative actions for purposes of judicial review.
 - (5) Aggrieved parties seeking judicial review of the final administrative pretreatment requirement decision must do so by filing a complaint with the Columbia County Circuit Court within 30 days. Failure to file the complaint within 30 days will bar any alternative or subsequent appeals.

3.2 Additional Pretreatment Measures.

- A. Whenever deemed necessary, the Superintendent 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 Superintendent 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. An Industrial Wastewater Discharge Permit may be issued solely for flow equalization.

- C. Grease, oil, and sand interceptors shall be provided where it is determined by the Superintendent, that they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential Users. All interception units shall be installed in conformance with the most recent revision of the Oregon Plumbing Specialty Code, the rules adopted thereunder, and any statute or rule of general applicability administered by the State of Oregon Building Codes Division and located so as to be easily accessible for cleaning, maintenance, and inspection. Such interceptor units shall be inspected, cleaned, repaired, and maintained in continuously efficient operating condition at all times by the User at their expense. Each User will need to determine the adequate maintenance schedule for their interceptor(s). The User is required to provide information if requested by the City of the determined maintenance schedule, and keep records verifying the maintenance provided. Acceptable maintenance means pumping out the entire interceptor. If at any time, the City finds that a User's maintenance schedule is inadequate to provide for efficient operation, the City shall require a more frequent maintenance schedule.
- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- E. Users may be required to install a control manhole, or other sampling device approved by the Superintendent, when deemed necessary by the Superintendent, to facilitate observation, sampling and flow measurement of the User's discharge. Such manholes, or other sampling devices approved by the Superintendent, shall be accessible and safely located and shall be constructed in accordance with plans approved by the City. The manhole, or other sampling device approved by the Superintendent, shall be installed and maintained by the User at their expense.
- F. In the event the City, during maintenance of public sewer lines, records situations of grease accumulation in lines sufficient to restrict the normal flow of waste, upstream Users shall be inspected. If the Superintendent determines that an upstream User is responsible for the grease or oil discharge, the User will be required to cease discharge of the prohibited waste. Additionally, the User may be required to install an interceptor, maintain the interceptor, and may be charged for the cost of cleaning the line. When an obstruction of the public line occurs, a violation of 40 CFR 403.5(b)(3) or (6) and Section 2.5 Specific Prohibitions has occurred.

3.3 Accidental Spill Prevention/Slug Control Plans.

- A. General Provisions. All Users, as required by the Superintendent, shall provide protection from accidental or intentional discharges of materials, which may cause Interference or Pass Through, or in any way violate the POTW's regulations, Local Limits, or permit conditions. Facilities necessary to prevent the discharge of prohibited or restricted substances shall be provided and maintained at the User's cost and expense.

- B. Specific Provisions. The Superintendent may require any User to develop, submit for approval to the City, and implement an Accidental Spill Prevention/Slug Control Plan (ASP/SCP) or take such other action that may be necessary to control Slug Discharges. Review and approval of such plans and operating procedures by the City shall not relieve the User from the responsibility to modify its facility as necessary to meet the requirements of this ordinance. The ASP/SCP shall be posted and available for inspection at the facility during normal business hours. An ASP/SCP shall address, at a minimum, the following:
- (1) Description of discharge practices, including nonroutine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the Superintendent of any accidental or Slug Discharge, as required by Section 6.6 of this ordinance; and
 - (4) 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 hauled wastewater.

3.4 Sector Control Programs

- A. The City may establish specific Sector Control Programs for non-residential sewer Users to control specific pollutants as necessary to meet the objectives of this Ordinance. Pollutants subject to these Sector Control Programs shall generally be controlled using Best Management Practices (BMPs).
- B. The City has identified commercial and industrial Users (Users) for inclusion into applicable Sector Control Programs. Once identified and included into one (1) or more sector control programs, such Users shall be required to comply with the applicable Sector Control Program requirements.
- C. FOG and SAND/OIL Sector consists of any facility that has the potential to discharge fats, oil, and grease (FOG) or sand/oil, including but not limited to non-residential Users where preparation, manufacturing, processing of food or washing/sanitizing of dishes or equipment occurs and includes, but are not limited to, restaurants, cafes, fast food outlets, quick-service restaurants, pizza outlets, delicatessens, sandwich shops, coffee shops, Mobile Food Establishments, schools, nursing homes and other facilities that prepare, service, or otherwise make foodstuff available for consumption, collectively described as Food Service Establishments (FSEs). Since these pollutants can contribute to sewer blockages, causing sanitary sewer overflows and backups into homes and businesses, all facilities in this Sector must comply with the requirements which include both the requirement for installation and proper operation and maintenance of an interceptor or separator and other reporting requirements. Grease, oil, and sand interceptors shall be provided in accordance with Section 3.2 of this ordinance.

(1) Definitions.

- (a) Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the general and specific prohibitions listed in Section 2.5 of this ordinance. BMPs are Pretreatment Standards and may include, but are not limited to, treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- (b) Fats, oil and grease (FOG): Non-petroleum organic polar compounds derived from animal or plant sources such as fats, non-hydrocarbons, fatty acids, soaps, waxes, and oils that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical procedures established in the 40 CFR Part 136.
- (c) Gravity Grease Interceptor (GGI): A plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept FOG (fats, oil and grease) from a wastewater discharge and are designed for gravity separation. Such interceptors are usually an in-ground interceptor that is located outside the facility.
- (d) Hydromechanical Grease Interceptor (HGI): A plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept FOG (fats, oil and grease) from a wastewater discharge and is identified by flow rate, separation and retention efficiency. The design incorporates air entrainment, hydromechanical separation, interior baffling, and / or barriers in combination or separately. These devices are commonly described as “grease traps” and usually inside the facility.

(2) General control requirements.

- (a) A grease interceptor shall be required for all FSEs for the proper handling of liquid wastes which may be harmful to, or cause obstruction in the wastewater collection system or cause or contribute to Interference or Pass Through. Mobile Food Establishments (Food Carts) may be exempt from the requirement to install and maintain a grease interceptor, provided the following conditions are met for each Food Cart operated:
 - (i) The Food Cart(s) is not discharging directly into the City’s POTW;
 - (ii) The owner/operator of such Food Cart(s) shall submit a Mobile Vendor Wastewater Management Plan with the Superintendent for review and shall not commence sale or preparation of food in the Food Cart(s) until such plan is approved;
 - (iii) Wastewater and other liquid wastes shall be removed from the Food Cart by a Hauled Waste (Septage) transport vehicle permitted in accordance with Section 3.4 E of this ordinance in such a way that a public health hazard or nuisance is not created;

- (iv) The wastewater collection device(s) for the Food Cart shall be designed and intended to hold and transport such wastewater without leaks or spills and have sufficient capacity to hold no less than 20 gallons;
 - (v) The owner/operator of such Food Cart(s) shall remove wastewater and other liquid wastes at a frequency sufficient to prevent exceeding capacity of the wastewater collection device(s).
- (b) It shall be the responsibility of the User and owner of the property, business or industry or an authorized representative of the industrial User to contact the City for the purpose of obtaining a plan review. The plan review shall determine the need, size, location, and other requirements of the interceptor required to control discharges into the POTW. Written approval from the City must be obtained prior to installation of the interceptor. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this chapter.
 - (c) The design and sizing of interceptors shall be in accordance with requirements established by the most recent State of Oregon Specialty Plumbing Code. The interceptor shall be designed, sized, installed, maintained and operated so as to accomplish their intended purpose of intercepting pollutants from the industrial User's wastewater and minimizing the discharge of such pollutants to the City's wastewater collection system.
 - (d) Upon change of ownership of any existing facility which would be required to have an interceptor under this section, the applicant for sanitary sewer service shall have the burden to demonstrate that a properly sized and functioning grease interceptor is installed.
 - (e) Toilets, urinals and similar fixtures shall not waste through an interceptor. Such fixtures shall be plumbed directly into the building sewer and waste system, not through an interceptor.
 - (f) All fixtures connected to an interceptor which are not equipped with a garbage disposal (garbage grinder) shall be equipped with a fixed or removable mesh or screen which shall catch garbage and food debris and prevent it from entering the interceptor, and such screen shall be in service when the fixture is in use.
 - (g) The User shall implement procedures that minimize the discharge of food solids to the POTW or a grease interceptor. In no case shall food waste be discharged that exceeds one-half (1/2) inch in any dimension. It is prohibited to use garbage grinders for disposal of any non-food waste.
 - (h) The User must ensure interceptors are easily accessible for inspection, cleaning, and removal of FOG.

- (i) The User must maintain interceptors at their expense and keep in efficient operating condition at all times by the regular removal of accumulated FOG.

(5) Required maintenance.

- (a) Interceptors shall be maintained by regularly scheduled cleaning so that they will properly operate as intended to efficiently intercept the fats, oil and grease from the facility's wastewater and prevent the discharge of said materials into the City's municipal wastewater collection system. Interceptors must be cleaned whenever the combined thickness of the floating greases and settled solids is greater than twenty-five percent (25%) of the design hydraulic depth of the interceptor.
- (b) The City may require more frequent cleaning than that prescribed in paragraph (a) above. A variance from the requirement for more frequent cleaning may be obtained if the User can demonstrate less frequent cleaning is sufficient.
- (c) In the event an interceptor is not properly maintained by the User, owner, lessee, or other authorized representative of the facility, the City may authorize such maintenance work be performed on behalf of the User. The costs of such maintenance shall be billed directly to the tenant/owner and shall become part of the charges due and owed to the City.
- (d) Biological treatment or enzyme treatment shall not be a substitute for the servicing of gravity interceptors or grease traps at the frequency required by the City. Use of enzymes or any other chemical or biological treatment or product that emulsifies or acts to emulsify FOG is strictly prohibited.
- (e) The User must document all maintenance activities using a City-approved log sheet or a waste manifest ticket which must be provided to the City as required and kept by the User on site for at least three (3) years.
- (f) The User must take reasonable steps to assure that all waste generated at the facility is properly disposed of at a facility in accordance with Federal, State and local regulations (i.e. through a certification by the hauler included on the waste manifest or trip ticket for each load).

D. Mercury Sector. Mercury sector consists of all facilities that have the potential to discharge mercury and/or amalgam. Mercury Best Management Practices (BMPs) shall apply to any facility that has the potential to discharge mercury and/or amalgam. All facilities subject to these BMPs must comply with the requirements which include both the requirement for installation and proper operation and maintenance of an amalgam separator and other reporting requirements.

(1) Definitions.

- (a) Amalgam or dental amalgam means any mixture or blending of mercury with another metal or with an alloy used in dental applications.
 - (b) Amalgam separator means a type of wastewater treatment equipment that is designed to remove solids, including amalgam associated solids, from the wastewater discharged by a dental facility.
 - (c) Amalgam waste means any waste containing mercury or residues from the preparation, use or removal of amalgam. This includes, but is not limited to, any mercury waste generated or collected by chair-side traps, screens, filters, vacuum systems filters, amalgam separators, elemental mercury, amalgam capsules and autoclaves or other equipment that come in contact with dental amalgam.
 - (d) Dental facility means any facility used for the practice of dentistry or dental hygiene that discharges wastewater to the POTW containing amalgam. This includes facilities that place or remove amalgam.
 - (e) Exempt dental practice means any dental facility in which no amalgam is placed or removed nor is amalgam used at any time in the dental practice.
- (2) Regulation and discharge to the City.
- (a) The City may control through permit, authorization to discharge, letter or other means, discharges to the POTW by a dental facility.
 - (b) New dental facilities: BMPs shall be implemented by the dental facility upon discharge to the POTW. Within thirty (30) days after discharge, the dental facility shall report to the City that an appropriate amalgam separator has/has not been installed and required BMPs implemented. Change of ownership shall be considered a New dental facility.
 - (c) Existing dental facilities: Dental facilities that are already operating and discharging upon the effective date of this article shall install an appropriate amalgam separator and implement required BMPs within ninety (90) days of the effective date of this article.
 - (d) Exempt dental facility. These BMPs are not required for dental facilities meeting the definition of an exempt dental facility.
- (3) Best Management Practices (BMPs) for the acceptance of dental amalgam. All dental facilities that discharge wastewater generated from the placement or removal of amalgam to the POTW are required to comply with the most recent version of the Oregon Dental Association Best Management Practices of Dental Wastes.
- (4) Recordkeeping. All records shall be kept on site for a minimum of three (3) years and shall be made available to the City on request as required by Section 6.13 of this ordinance. Each dental facility shall maintain records of:

- (a) Name of manufacturer, model and date of installation for each amalgam separator;
 - (b) Amalgam disposal. Records shall include the date, name and address of the facility to which any waste amalgam is shipped and the amount shipped;
 - (c) Records (logs) shall include at a minimum, the date and time of the visual inspection, initials of person conducting the inspection and whether or not the level of solids is such that the unit needs to have maintenance or other problems are identified (e.g. leaks);
 - (d) Amalgam waste: Records of all maintenance and service completed on the amalgam separator;
 - (e) Best Management Practices. Records shall include any and all Best Management Practices activities performed to comply with Local, State, or Federal regulations.
- (5) The dental facility shall inform the City prior to:
- (a) Sale or transfer of ownership of the business;
 - (b) Change in the trade name under which the business is operated;
 - (c) Change in the nature of the services provided that affect the potential to discharge amalgam; or
 - (d) Remodeling of the facility that may result in an increase in flow or pollutant loading or that otherwise requires the facility to submit plans or specifications for approval through a building or zoning department or any other formal approval process by the jurisdiction in which the dental facility is located.
- (6) Inspections and data collection.
- (a) The City may conduct inspections or require written waste surveys for any dental facility. Inspection may be conducted with or without notice for the purpose of determining applicability and/or compliance with these this ordinance.
 - (b) If any inspection reveals non-compliance with any provision of this dental facility BMPs, corrective action shall be required.
- (7) Closure. The City may require the dental facility and/or facility owner to take specific action in the case of closure of the dental facility. This may include special handling of potentially contaminated plumbing, treatment devices or storage components.

E. Hauled waste sector consists of all haulers of septic tank waste (septage). Septage will only be accepted into the municipal wastewater system at a designated

receiving structure specified by the Superintendent. Waste will be accepted at such times as are established by the City, provided such wastes do not contain hazardous wastes or otherwise violate any provision of Section 2.5 of this ordinance. RV dump stations on private property are subject to periodic monitoring and permitting to ensure compliance with applicable standards of this ordinance. Additionally, any person proposing to be a mobile waste hauler or any person the Superintendent has determined is likely to be a mobile waste hauler must obtain a Septage Waste Hauler Discharge Permit from the City prior to discharging into the POTW. Permits for hauled waste vehicles to use such facilities shall be issued by the City. Any discharge into the City's POTW, or any contributing jurisdiction, by a mobile waste hauler without a permit is a violation of this ordinance.

- (1) All waste haulers, regardless of the origin of the hauled wastes, shall be considered "Industrial Users" for the purposes of this ordinance.
- (2) Septage waste shall be discharged at one designated location at the POTW.
- (3) Septage waste shall not violate Section 2.5 of this ordinance.
- (4) The discharge of hauled industrial wastes requires prior approval and a wastewater permit from the City issued to the source of industrial wastewater. The Superintendent shall have authority to prohibit the disposal of such wastes.
- (5) Fees for the discharge of septage will be established as part of the User fee system as authorized in Section 15 of this ordinance.
- (6) The Superintendent may collect samples of each hauled load to ensure compliance with applicable standards. The Superintendent may also require the mobile waste hauler to provide a waste analysis of any load prior to discharge. The discharge of a hauled waste that is identified as hazardous waste is prohibited. If a load is refused as hazardous waste the waste hauler must file a manifest stating when, where, and how the load was discharged. This manifest must be filed with the pretreatment office/wastewater treatment plant before any further hauled wastes are accepted from that contractor.
- (7) Application for permit. Any new mobile waste hauler shall apply for a Septage Waste Hauler Permit at least thirty (30) days prior to its initial discharge. Applications shall be made to the Superintendent in writing on forms provided by the City and shall include the following information:
 - (a) Name, address, telephone number and authorized representative of the applicant;
 - (b) Proof of state or federal license numbers;
 - (c) A description of the vehicle(s) that will store or discharge septage;
 - (d) Signatory and certification required by Section 4.7 of this ordinance.
- (8) The Superintendent shall evaluate the data furnished by the applicant and may determine that additional information or sampling of wastewater

characteristics is necessary. If such a determination is made, the applicant, unless the time period is extended, will be given thirty (30) days to provide the required information or sampling. If it is not provided within the designated time period, the application shall be denied. After determining that the submitted application contains all the information required by this subsection, the Superintendent shall consider the submission, any additional evidence that may have been requested, and any other available information relevant to the application. If the Superintendent determines that the proposed discharge meets the requirements of this ordinance and the additional septage does not otherwise overload or cause damage to any portion of the POTW; or will not create an imminent or potential hazard to personnel, the Superintendent shall, within thirty (30) days after determining that the application is complete, issue a Septage Waste Hauler Discharge Permit subject to appropriate conditions.

- (9) Modification of Permit. Conditions included in a Septage Waste Hauler Discharge Permit shall remain in effect for that permit until it expires, except that they may be revised by the Superintendent whenever the Superintendent deems a revision is necessary in order to effectively implement the Pretreatment Program, to reflect changes in State or Federal regulations, or to meet any emergency. The permit holder shall be informed of any proposed change in its permit at least thirty (30) days prior to the effective date of the change except in the event of an emergency.
- (10) Duration. Permits shall be issued for a specified time period, not to exceed five (5) years. The permit holder shall apply for permit reissuance a minimum of ninety (90) days prior to the expiration of its existing permit if it desires to continue to discharge. An expired permit will continue to be in effect until the City takes final action on the renewal application to issue or deny the permit if:
 - (a) The permit holder has submitted a complete permit application at least ninety (90) days prior to the expiration of its permit; and
 - (b) The failure to take final action is not due to any act or failure to act on the part of the permit holder.
- (11) Transfer. A mobile Septage Waste Hauler Discharge Permit shall be issued to a specific mobile waste hauler for a specific operation. A Septage Waste Hauler Discharge Permit shall not be assigned, transferred or sold without the approval of the Superintendent. Any successor mobile waste hauler shall agree to comply with the terms and conditions of the existing permit as a condition precedent to the approval by the Superintendent of a transfer, sale or assignment of the permit.

- F. New Construction or Remodeling. The City shall review new construction and existing facilities undergoing any physical change, change in ownership, change in operations, or other change that could alter the nature, properties, or volume of wastewater discharge, to ensure that appropriate sector control program requirements are implemented and maintained. The User shall inform the City prior to:

- (a) Sale or transfer of ownership of the business; or
 - (b) Change in the trade name under which the business is operated; or
 - (c) Change in the nature of the services provided that affect the potential to discharge sector control program pollutants; or
 - (d) Remodeling of the facility that may result in an increase in flow or pollutant loading or that otherwise requires the facility to submit plans or specifications for approval through a building or zoning department, or any other formal approval process of a City, county, or other jurisdiction.
- G. Inspections.
- (a) The City may conduct inspections of any facility with or without notice for the purpose of determining applicability and/or compliance with Sector Control Program requirements.
 - (b) If any inspection reveals non-compliance with any provision of a Sector Control Program requirement, corrective action shall be required pursuant to the applicable Sector Control Program.
 - (c) Inspection results will be provided in writing to the inspected facility.
- H. The City may require closure of plumbing, treatment devices, storage components, containments, or other such physical structures that are no longer required for their intended purpose. Closure may include the removal of equipment, the filling in and/or cementing, capping, plugging, etc.
- I. Restitution. Any extraordinary costs incurred by the City due to Interference, damage, Pass Through, or maintenance necessary in the treatment and/or collection system shall be paid by the User to the City. The direct costs of all labor, equipment and materials incurred in rectifying the Interference or damage, including reasonable Attorney's fees, shall be billed directly to the property owner or the User by the City, and such costs shall become part of the total charges due and owing to the City and shall constitute a lien on the property owner and/or User's property until paid in full.

SECTION 4 – INDUSTRIAL WASTEWATER DISCHARGE PERMITS

4.1 Wastewater Permit Eligibility

Issuance of an Industrial Wastewater Discharge Permit shall be determined by submission and review of an Environmental Survey Form. When requested by the City, non-domestic Users must submit information on the nature and characteristics of their wastewater by completing an Environmental Survey Form and, if required, an Industrial Wastewater Discharge Permit application prior to commencing their discharge. The City is authorized to prepare a form for this purpose and may periodically require industrial Users to update a previously submitted survey. Failure to complete this survey shall be reasonable grounds for terminating service to the User and shall be considered a violation of this ordinance.

4.2 Wastewater Analysis.

When requested by the Superintendent, a User shall submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The User shall sample and analyze in accordance with Sections 6.10 and 6.11 of this ordinance. The Superintendent is authorized to prepare a form for this purpose and may periodically require Users to update this information. Failure to submit this information shall be reasonable grounds for terminating service to the User and shall be considered a violation of this ordinance. All wastewater analyses must be signed and certified in accordance with Section 6.14 A of this ordinance.

4.3 Individual Wastewater Discharge Permit Requirement.

- A. No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an Industrial Wastewater Discharge Permit from the Superintendent, except that a Significant Industrial User that has filed a timely application pursuant to Section 4.4 of this ordinance may continue to discharge for the time period specified therein.
- B. The Superintendent may require other Users to obtain Industrial Wastewater Discharge Permits as necessary to carry out the purposes of this ordinance.
- C. Any violation of the terms and conditions of an Industrial Wastewater Discharge Permit shall be deemed a violation of this ordinance and subjects the Permittee to the Enforcement actions identified in Sections 10, 11, and 12 of this ordinance. Obtaining an Industrial Wastewater Discharge Permits 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.

4.4 Wastewater Discharge Permitting – Existing Connections.

Any User required to obtain an Industrial Wastewater Discharge Permit who was discharging wastewater into the POTW without a permit prior to the effective date of this ordinance and who wishes to continue such discharges in the future shall, within ninety (90) days after said date, apply to the Superintendent for an Industrial Wastewater Discharge Permit in accordance with Section 4.6 of this ordinance, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this ordinance except in accordance with an Industrial Wastewater Discharge Permit issued by the Superintendent.

4.5 Wastewater Discharge Permitting – New Connections.

Any User required to obtain an Industrial Wastewater Discharge Permit who 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 Industrial Wastewater Discharge Permit that complies with Section 4.6 of this ordinance must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

4.6 Wastewater Discharge Permit Application Contents.

- A. All Users required to obtain an Industrial Wastewater Discharge Permit must submit a permit application. The Superintendent may require all Users to submit as part of an application the following information:
- (1) Identifying Information.
 - (a) The name address of the facility, including the name of the operator and owner;
 - (b) Contact information, description of activities, facilities, and plant production processes on the premises;
 - (2) A list of any Environmental Control permits held by or for the facility, including but not limited to Air Quality or Storm Water discharge permits;
 - (3) Signatory and certification required by Section 4.7 of this ordinance;
- B. Description of Operations.
- (1) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes;
 - (2) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - (3) Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - (4) Type and amount of all raw materials processes (average and maximum per day);
 - (5) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location and elevation, and all points of discharge;
 - (6) Each product produced by type, amount, process or processes, and rate of production;
- C. Time and duration of discharges;
- D. The location for monitoring process wastewaters, not to be located prior to the end of process or after the introduction of sanitary wastewaters;

- E. 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 the use of the combined wastestream formula set out in Section 2.6 C of this ordinance.
- F. Measurement of Pollutants.
 - (1) The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
 - (2) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process.
 - (3) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - (4) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Sections 6.10 and 6.11 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Superintendent or the applicable Standards to determine compliance with the BMP or pollution prevention alternative Standard.
 - (5) Sampling must be performed in accordance with procedures set out in Section 6.11 of this ordinance
- G. Any other information as may be deemed necessary by the Superintendent to evaluate the Industrial Wastewater Discharge Permit application.
- H. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

4.7 Application signatories and certification.

- A. All Industrial Wastewater Discharge Permit applications, User reports and certification statements must be signed by an Authorized Representative, as defined in Section 1.4 D, of the User and contain the certification statement in Section 6.14 A of this ordinance.
- B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Superintendent prior to or together with any reports to be signed by an Authorized Representative.

- C. A facility determined to be a Non-Significant Categorical Industrial User by the Superintendent pursuant to 40 CFR 403.3(v)(2) must annually submit the signed certification statement in Section 6.14 B. Such certification statement must accompany any alternative or periodic report required by the City.

SECTION 5 –INDUSTRIAL WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

5.1 Industrial Wastewater Discharge Permit decisions.

The Superintendent will evaluate the data furnished by the User and may require additional information. Within sixty (60) days of receipt of a complete Industrial Wastewater Discharge Permit application, the Superintendent will determine whether or not to issue a wastewater discharge permit. The Superintendent may deny any application for a wastewater discharge permit. Appeals of the Superintendent's decision are subject to the provisions of Section 5.4 of this ordinance.

5.2 Industrial Wastewater Discharge Permit duration.

An Industrial Wastewater Discharge Permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An Industrial Wastewater Discharge Permit may be issued for a period less than five (5) years at the discretion of the Superintendent.

5.3 Industrial Wastewater Discharge Permit contents.

An Industrial Wastewater Discharge Permit shall include such conditions as are deemed reasonably necessary by the Superintendent to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Industrial Wastewater Discharge Permits must contain:

- (a) A statement that indicates the Industrial Wastewater Discharge Permit issuance date, expiration date, and effective date;
- (b) A statement that indicates Industrial Wastewater Discharge Permit duration, which in no event shall exceed five (5) years;
- (c) A statement that the Industrial Wastewater Discharge Permit is nontransferable without prior notification and approval from the City in accordance with Section 5.6 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing Industrial Wastewater Discharge Permit;
- (d) Effluent discharge limitations, including Best Management Practices (BMPs,) based on applicable federal Pretreatment Standards or Local Limits, whichever is most restrictive;

- (e) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants (or BMP) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
 - (f) 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.
 - (g) Requirement to control Slug Discharge, if determined by the Superintendent to be necessary.
- B. Industrial Wastewater Discharge Permits may contain, but need not be limited to, the following conditions:
- (a) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - (b) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - (c) Requirement to develop and implement an Accidental Spill Plan/Slug Control Plan (ASP/SCP) or other special condition, including BMPs, necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
 - (d) Development and implementation of waste minimization or pollution prevention plans to reduce the amount of pollutants discharged to the POTW;
 - (e) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;
 - (f) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
 - (g) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules;
 - (h) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s);
 - (i) Compliance schedules for meeting Pretreatment Standards and requirements;

- (j) Requirements for maintaining and retaining facility records relating to wastewater discharge and affording the Superintendent, or his representatives, access thereto;
- (k) Requirements for prior notification and approval by the Superintendent of any new introduction of wastewater pollutants or of any change in the volume or character of the wastewater prior to introduction in the system;
- (l) Requirements for the prior notification and approval by the Superintendent of any change in the manufacturing and/or pretreatment process used by the permittee;
- (m) Requirements for immediate notification of excessive, accidental or slug discharges, or any discharge which could cause any problems to the POTW;
- (n) A statement that compliance with the Industrial 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;
- (o) Other conditions as deemed appropriate by the Superintendent to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

5.4 Industrial Wastewater Discharge Permit Appeals.

Any person, including the Permittee, may petition to the City to reconsider the terms of the permit within thirty (30) days of the issuance of the final 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 permit provisions objected to, the reasons for this objection, and the alternative conditions, if any, it seeks to place in the Industrial Wastewater Discharge Permit.
- C. The effectiveness of the Industrial Wastewater Discharge Permit shall not be stayed pending the appeal.
- D. If the Superintendent fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an Industrial Wastewater Discharge Permit, not to issue an Industrial Wastewater Discharge Permit, or not to modify an Industrial Wastewater Discharge Permit, shall be considered final administrative action for purposes of judicial review.
- E. Aggrieved parties seeking judicial review of the final administrative Industrial Wastewater Discharge Permit decision must do so by filing a written complaint with the City of St. Helens.

5.5 Industrial Wastewater Discharge Permit Modifications.

- A. The Superintendent may modify an Industrial 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 Industrial 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 that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters;
 - (e) Violation of any terms or conditions of the Industrial Wastewater Discharge Permit;
 - (f) Misrepresentations or failure to fully disclose all relevant facts in the Industrial 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 Industrial Wastewater Discharge Permit; or
 - (i) To reflect a transfer of the facility ownership or operation to a new owner or operator in accordance with Section 5.6 of this ordinance.
- B. The filing of a request by the Permittee for an Industrial Wastewater Discharge Permit modification does not stay any Industrial Wastewater Discharge Permit condition.

5.6 Industrial Wastewater Discharge Permit Transfer.

- A. Industrial Wastewater Discharge Permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the Superintendent and the Superintendent approves the Industrial Wastewater Discharge Permit transfer. The notice to the Superintendent must include a provision for furnishing the new owner or operator with a copy of the existing permit and a written certification by the new owner or operator which:
- (a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

- (b) Identifies the specific date on which the transfer is to occur; and
 - (c) Acknowledges full responsibility for complying with the existing wastewater discharge permit.
- B. Failure to provide advance notice of a transfer renders the Industrial Wastewater Discharge Permit void as of the date of facility transfer.
 - C. Industrial Wastewater Discharge Permits shall be voidable upon cessation of operations or transfer of business ownership. All Industrial Wastewater Discharge Permits issued to an Industrial User are void upon the issuance of a new Industrial Wastewater Discharge Permits to that Industrial User.

5.7 Industrial Wastewater Discharge Permit Revocation.

The Superintendent may revoke an Industrial Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the Superintendent of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the Superintendent of changed conditions pursuant to Section 6.5 of this ordinance;
- C. Misrepresentation or failure to fully disclose all relevant facts in the Industrial Wastewater Discharge Permit application;
- D. Falsifying self-monitoring reports and certification statements;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the Superintendent 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 or permit fees;
- J. Failure to meet compliance schedules;
- K. Failure to complete an Environmental Survey or Industrial Wastewater Discharge Permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

- M. Violation of any Pretreatment Standard or Requirement, or any terms of the Industrial Wastewater Discharge Permit or this ordinance.

5.8 Industrial Wastewater Discharge Permit Reissuance.

A User with an expiring Industrial Wastewater Discharge Permit shall apply for Industrial Wastewater Discharge Permit reissuance by submitting a complete Industrial Wastewater Discharge Permit application, in accordance with Section 4.6 of this ordinance, a minimum of ninety (90) days prior to the expiration of the User's existing Industrial Wastewater Discharge Permit. A User whose existing Industrial Wastewater Discharge Permit has expired, and who has submitted an application in the time period specified in this section, shall be deemed to have an effective Industrial Wastewater Discharge Permit until the City reissues or denies a new Industrial Wastewater Discharge Permit. A User whose existing Industrial Wastewater Discharge Permit has expired and who failed to submit its reapplication in the time period specified herein will be deemed to be discharging without an Industrial Wastewater Discharge Permit and shall be in violation of this ordinance.

5.9 Regulation of Waste Received from Other Jurisdictions.

- A. If another unit of government, or User located within another unit of government, contributes wastewater to the POTW, the City shall enter into an intergovernmental agreement with the contributing unit of government.
- B. Prior to entering into an agreement required by paragraph A of this Section, the Superintendent shall request the following information from the contributing municipality:
 - (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
 - (2) An inventory of all Users located within the contributing municipality that are discharging to the POTW; and
 - (3) Such other information as the Superintendent may deem necessary.
- C. An intergovernmental agreement, as required by paragraph A of this Section, shall contain the following conditions:
 - (1) A requirement for the contributing unit of government to adopt a sewer use ordinance, or other governing document, with minimum standards which are at least as stringent as this ordinance and Local Limits which are at least as stringent as those set out in Section 2.8 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to automatically adopt additional regulations or other changes made to the City's ordinance or Local Limits;
 - (2) A requirement for the contributing unit of government to submit a revised User inventory on at least an annual basis;

- (3) A provision specifying which pretreatment implementation activities, including Industrial Wastewater Discharge Permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing unit of government; which of these activities will be conducted by the Superintendent; and which of these activities will be conducted jointly by the contributing unit of government and the Superintendent;
- (4) A requirement for the contributing unit of government to provide the Superintendent with access to all information that the contributing unit of government obtains as part of its pretreatment activities;
- (5) Limits on the nature, quality, and volume of the contributing unit of government's wastewater at the point where it discharges to the POTW;
- (6) Requirements for monitoring the contributing unit of government's discharge;
- (7) A provision ensuring the Superintendent access to the facilities of Users located within the contributing unit of government's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Superintendent to enforce this ordinance; and
- (8) A provision specifying remedies available for breach of the terms of the intergovernmental agreement.

SECTION 6 – REPORTING REQUIREMENTS

6.1 Baseline Monitoring Reports.

- A. Within either one-hundred-eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Superintendent a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard shall submit to the Superintendent a report which contains the information listed in paragraph B, below. A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- B. Users described above shall submit the information set forth below:
 - (1) All information required in:
 - (a) Section 4.6 A. (1)(a),
 - (b) Section 4.6 A. (2),

- (c) Section 4.6 B. (1), and
 - (d) Section 4.6 E. of this ordinance.
- (2) Measurement of Pollutants.
- (a) The User shall provide the information required in Section 4.6 F. (1) through (5) of this ordinance.
 - (b) The User shall take a minimum of one (1) representative sample to compile the data necessary to comply with the requirements of this paragraph.
 - (c) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e), this adjusted limit along with supporting data shall be submitted to the Control Authority;
 - (d) Sampling and analysis shall be performed in accordance with Section 6.10 of this ordinance;
 - (e) The Superintendent may allow the submission of a Baseline Monitoring Report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
 - (f) The Baseline Monitoring Report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.
- (3) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in Section 1.4 D and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.
- (4) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The

completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 6.2 of this ordinance.

- (5) Signature and Report Certification. All baseline monitoring reports must be signed and certified in accordance with Section 4.7 of this ordinance and signed by an Authorized Representative as defined in Section 1.4 D of this ordinance.

6.2 Compliance Schedule Progress Reports.

The following conditions shall apply to the compliance schedules required by Section 6.1(B)(4) of this ordinance:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred to above shall exceed nine (9) months;
- C. The User shall submit a progress report to the Superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule;
- D. In no event shall more than nine (9) months elapse between such progress reports to the superintendent; and
- E. If compliance dates are not met, or reports not submitted when due, the City may take appropriate enforcement action for lack of satisfactory progress toward compliance.

6.3 Reports on Compliance with Categorical Pretreatment Standard deadline.

Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and requirements shall submit to the Superintendent a report containing the information described in Sections 4.6 E, 4.6 F, and 6.1 B(2) of this ordinance. 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 Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 2.6 of this ordinance, 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 Section 6.14 of this ordinance. All sampling will be done in conformance with Section 6.11 of this ordinance.

6.4 Periodic Compliance Reports.

- A. All Industrial Users shall, at a frequency determined by the Superintendent but in no case less than twice per year (in June and December), 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. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the Significant Industrial User must submit documentation required by the Superintendent or the Pretreatment Standard necessary to determine the compliance status of the Industrial User.
- B. The City may reduce the requirement in subsection (A) of this section to a requirement to report no less frequently than once a year, unless required more frequently by an applicable categorical Pretreatment Standard or by the Approval Authority, where the User meets all of the following conditions:
 - (1) The User's total categorical wastewater flow does not exceed any of the following:
 - (a) One one-hundredth percent of the design dry weather hydraulic capacity of the POTW, or 5,000 gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the User discharges in batches;
 - (b) One one-hundredth percent of the design dry weather organic treatment capacity of the POTW; and
 - (c) One one-hundredth percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved Local Limits were developed by a POTW in accordance with Section 2.8 of this ordinance.
 - (2) The User has not been in Significant Noncompliance, as defined Section 9 of this ordinance for any time in the past two years;
 - (3) The User does not have daily flow rates, production levels, or pollutant levels that vary so significantly that decreasing the reporting requirement for this User would result in data that are not representative of conditions during the reporting period;
 - (4) The User must notify the City immediately of any changes at its facility causing it to no longer meet conditions of subsections (E)(1)(a) or (b) of this section. Upon notification, the User must immediately begin complying with the minimum reporting in subsection (A) of this section; and

- (5) The City must retain documentation to support the City's determination that a specific User qualifies for reduced reporting requirements under subsection (E)(1) of this section for a period of three (3) years after the expiration of the term of the control mechanism.
- C. All periodic compliance reports submitted must be signed and certified in accordance with Section 4.7 of this ordinance and signed by an Authorized Representative as defined in Section 1.4 D of this ordinance.
- D. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.
- E. If a User subject to the reporting requirement in this section monitors any regulated pollutant at a required monitoring location more frequently than required by the Industrial Wastewater Discharge Permit, using the procedures prescribed in Section 6.11 of this ordinance, the results of such monitoring shall be included in the report.

6.5 Reports of Changed Conditions.

- A. Industrial Users must inform the POTW of any change in spill/slug potential. Each User must notify the Superintendent of any planned significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater, including facility closure at least ten (10) days before the change.
- B. The Superintendent may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an Industrial Wastewater Discharge Permit application under Section 4.6 of this ordinance.
- C. The Superintendent may issue an Industrial Wastewater Discharge Permit under Section 5.1 of this ordinance or modify an existing Industrial Wastewater Discharge Permit under Section 5.5 of this ordinance in response to changed conditions or anticipated changed conditions.
- D. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater and the discharge of any previously unreported pollutants.

6.6 Reports of Potential Problems.

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a Slug Discharge or Slug Load, that may cause potential problems for the POTW, the User shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, date and time thereof,

type of waste, concentration and volume, if known, and corrective actions taken by the User.

- B. Within five (5) days following such discharge, the User shall, unless waived by the Superintendent, submit to the Superintendent a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this chapter or other applicable law.
- C. A notice shall be permanently posted in conspicuous places advising the User's employees whom to call in the event of a discharge described in subsection (A) of this section. Employers shall ensure that all affected employees who may cause such a discharge to occur are advised of the emergency notification procedure and that such advisory is adequately documented.
- D. Users must notify the Superintendent immediately of any changes at its facility affecting the potential for a Slug Discharge.

6.7 Reports from Unpermitted Users.

All Users not required to obtain an Industrial Wastewater Discharge Permit shall provide appropriate reports to the Superintendent as the Superintendent may require.

6.8 Notice of Violation/Repeat Sampling and Reporting.

- A. If sampling performed by a User indicates a violation of this ordinance, the User must notify the Superintendent within twenty-four (24) hours of becoming aware of the violation.
- B. The User shall repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within thirty (30) days after becoming aware of the violation.
- C. The User shall be deemed to be out of compliance with this ordinance until repeat analysis confirms that compliance has been achieved.
- D. The City may confirm compliance or sample to determine results. If the City results demonstrate compliance the City shall allow the User to use the results for compliance.

6.9 Notification of the Discharge of Hazardous Waste.

- A. All Users shall immediately notify the Superintendent, DEQ, and EPA in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than one-hundred (100) 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:

- (1) An identification of the hazardous constituents contained in the wastes,
 - (2) An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and
 - (3) An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months.
- B. All notifications must take place no later than one-hundred-eighty (180) days after the discharge commences. Any notification under this Section need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 6.5 of this ordinance. The notification requirement in this Section does not apply to pollutants already reported by Industrial Users subject to Categorical Pretreatment Standards under the self-monitoring requirements of Sections 6.1, 6.3 and 6.4 of this ordinance.
- C. Dischargers are exempt from the requirements of Paragraphs A and B above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are 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 Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.
- 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 that it has determined to be economically practical.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable federal or state law.

6.10 Analytical requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of an Industrial Wastewater Discharge Permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures suggested by the Superintendent or other parties approved by EPA.

6.11 Sample collection.

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

- A. Except as indicated in subsections (B) and (C) of this section, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless the Superintendent authorizes time-proportional composite sampling or grab sampling. Where time-proportional composite sampling or grab-sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate sample preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. In addition, grab samples may be required to show compliance with instantaneous limits.
- B. Samples for oil and grease, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- C. For sampling required in support of baseline monitoring and ninety- (90-) day compliance reports required in Section 6.1 and 6.3 of this ordinance, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Superintendent may authorize a lower minimum. For the reports required by paragraphs Section 6.4 of this ordinance, the User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.
- D. All sample results shall indicate the time, date and location of sampling; methods of analysis, date of and person performing analysis; and a certification that such sampling and analysis is representative of normal work cycles and expected pollutant discharges from the User. If a User sampled and analyzed, using methodologies in 40 CFR Part 136, more frequently than what was required in its wastewater discharge permit, User shall submit all results of sampling and analysis of the discharge as part of User's self-monitoring report.
- E. The possession and handling of all samples destined for transport and analysis at offsite laboratories shall be documented from the time of collection through the time of disposal on a chain of custody (COC) form. Samples collected for analysis at the User's in-house laboratory do not require a COC, provided the information required in Section 6.13 of this ordinance is documented. The chain of custody record shall be retained by the User and shall become part of the analysis documentation. If the User fails to retain proper and complete chain of custody documentation, analysis for the sample in question will be invalidated and the User shall sample again.

6.12 Date of Receipt of Reports.

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

6.13 Recordkeeping.

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 ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with the Best Management Practices established under Section 2.6 or 2.8 of this ordinance. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the Superintendent has specifically notified the User of a longer retention period.

6.14 Certification Statements

A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver certification statement is required to be signed and submitted by:

- (1) Users submitting permit applications in accordance with Section 4.6 of this ordinance;
- (2) Users submitting baseline monitoring reports under Section 6.1 of this ordinance;
- (3) Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 6.3 of this ordinance;
- (4) Users submitting periodic compliance reports required by Section 6.4 of this ordinance, and

The following certification statement must be signed by an Authorized Representative as defined in Section 1.4 C:

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

B. Annual Certification for Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User by the Superintendent pursuant to Sections 1.4 LLL (3) and 4.7 C of this ordinance must annually submit the following certification statement signed in accordance with the signatory requirements in Section 1.4 D of this ordinance. This certification must accompany an alternative report required by the Superintendent:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR ____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

- (a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Section 1.4 LLL (3) of this ordinance;
- (b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than one-hundred (100) gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

SECTION 7 – COMPLIANCE MONITORING

7.1 Right of Entry – Inspection and sampling.

The Superintendent and other duly authorized employees shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this chapter and any Industrial Wastewater Discharge Permit or order issued hereunder. Users shall allow the Superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the City, State, or U.S. EPA will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The City, State, or U.S. EPA shall have the right to inspect and/or install sampling equipment 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 Superintendent may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated no less frequently than twice per year to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access shall be borne by the User.
- E. Unreasonable delays in allowing City personnel access to the User's premises shall be a violation of this ordinance.

7.2 Search Warrants.

If the Superintendent has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Superintendent may seek issuance of a search warrant from the applicable presiding jurisdiction.

SECTION 8 – CONFIDENTIAL INFORMATION

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

Wastewater constituents and characteristics and other effluent data as defined by 40 CFR 403.14 will not be recognized as confidential information and will be available to the public without restriction.

SECTION 9 – PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Superintendent shall publish annually in January, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the POTW, a list of the Users which, during the previous twelve (12) months, were in significant noncompliance with applicable Pretreatment Standards and Requirements. The term “significant noncompliance” shall mean:

- A. Chronic violations of wastewater discharge limits and instantaneous limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirements including Instantaneous Limits, as defined by Section 2;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement, including Instantaneous Limits, as defined by Section 2, multiplied by the applicable criteria:
 - a. $TRC = 1.4x$ for BOD, TSS, fats, oils and grease, and
 - b. $TRC = 1.2x$ for all other pollutants except pH;
- C. Any other violation of a Pretreatment Standard or Requirement as defined by Section 2 that the Superintendent determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent’s exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an Industrial Wastewater Discharge Permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide, within forty-five (45) 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), which may include a violation of a Best Management Practices (BMPs), which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

- I. All the above violations apply to SIUs but IUs are only required to be in SNC if they violate paragraphs C, D, or H of this section.

SECTION 10—ADMINISTRATIVE ENFORCEMENT REMEDIES

Whenever the City finds that a User has violated any of the provisions in this ordinance, an Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the User shall be subject to an enforcement action using any of the remedies and sanctions that are authorized in this ordinance and state law.

10.1 Notification of violation.

If the industrial User is out of compliance the Superintendent may take the first level of enforcement action, which is typically a phone call to the User. This telephone call allows the staff to inform the IU that they are in violation and that they need to take immediate steps to stop the noncompliance event. If the Superintendent finds that a User continues to violate any provisions of this ordinance or an Industrial Wastewater Discharge Permit, the Superintendent may serve upon that User a written Notice of Violation (NOV). This NOV shall include an explanation of the violation and the requirement that the User submit a report to the Superintendent within ten (10) days of receiving the NOV stating the reason for the violation and the specific steps that will be taken to ensure the satisfactory correction and prevention of future violations. Submission of this report 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 Superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.2 Consent Orders.

The City Attorney or Superintendent 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 10.4 and 10.5 of this ordinance and shall be judicially enforceable.

10.3 Show Cause Hearing.

The City Attorney or Superintendent may order a User which has violated, or continues to violate, any provision of this ordinance, an Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the City Attorney or Superintendent and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Section 1.4 D and required by Section 4.7 A of this ordinance. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

10.4 Compliance Orders.

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

10.5 Cease and Desist Orders.

When the City Attorney or Superintendent finds that a User has violated, or continues to violate, any provision of this ordinance, 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 City Attorney or Superintendent 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.

10.6 Administrative Fines.

- A. When the City Attorney or Superintendent finds that a User has violated, or continues to violate, any provision of this ordinance, an Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City Attorney or Superintendent may fine such User in an amount no less than \$1,000 but not to exceed \$25,000. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- B. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of twelve percent (12%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the User's property will be sought for unpaid charges, fines, and penalties.
- C. Users desiring to dispute such fines must file a written request for the City Attorney or Superintendent to reconsider the fine along with full payment of the fine amount

within ten (10) days of being notified of the fine. Where a request has merit, the City Attorney or Superintendent may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The Superintendent may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

10.7 Emergency Suspensions.

The City Attorney or Superintendent 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 City Attorney or Superintendent 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 City Attorney or Superintendent may 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 City Attorney or Superintendent may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed, unless the termination proceedings in Section 10.8 of this ordinance are initiated against the User.
- B. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Superintendent prior to the date of any show cause or termination hearing under Sections 10.3 or 10.8 of this ordinance.

Nothing in this section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

10.8 Termination of Discharge.

In addition to the provisions in Section 5.7 of this ordinance, any User who violates the following conditions is subject to discharge termination:

- A. Violation of Industrial Wastewater Discharge Permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;

- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the Pretreatment Standards in Section 2 of this ordinance.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of this ordinance why the proposed action should not be taken. Exercise of this option by the Superintendent shall not be a bar to, or a prerequisite for, taking any other action against the User.

SECTION 11—JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive relief.

When the City Attorney or Superintendent finds that a User has violated, or continues to violate, any provision of this ordinance, an Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City Attorney or Superintendent may petition the City of St. Helens municipal court, or other court of competent jurisdiction, 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 City Attorney or Superintendent may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

11.2 Civil penalties.

- A. A User who 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 shall be liable to the City for a maximum civil penalty of no less than \$1,000 but not to exceed \$25,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. The City Attorney or Superintendent 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 City.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance

history of the User, and any other factor the court deems relevant, after due consideration.

- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

11.3 Criminal prosecution.

- A. A User who willfully or negligently violates any provision of this chapter, 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 of at least \$1,000 but not more than \$25,000 per violation, per day, or imprisonment for not more than one year, or both.
- B. A User who willfully or negligently introduces 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 \$1,000 but not more than \$25,000 or be subject to imprisonment for not more than one year, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
- C. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of at least \$1,000 but not more than \$25,000 per violation, per day, or imprisonment for not more than one year, or both.
- D. In the event of a second conviction, a User shall be punished by a fine of at least \$1,000 but not more than \$25,000 per violation, per day, or imprisonment for not more than three years, or both.

11.4 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The City may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's Industrial Pretreatment Program's Enforcement Response Plan. However, the Superintendent may take other action against any User when the circumstances warrant. Further, the Superintendent is empowered to take more than one enforcement action against any noncompliant User.

11.5 Protection from Damages

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the publicly operated treatment works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct or other applicable charges.

SECTION 12—SUPPLEMENTAL ENFORCEMENT ACTION

12.1 Performance Bonds.

The City Attorney or Superintendent may decline to issue or reissue an Industrial Wastewater Discharge Permit to any User who has failed to comply with any provision of this ordinance, a previous Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the City Attorney or Superintendent to be necessary to achieve consistent compliance.

12.2 Liability Insurance.

The City Attorney or Superintendent may decline to issue or reissue an Industrial Wastewater Discharge Permit to any User who has failed to comply with any provision of this ordinance, a previous Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

12.3 Payment of Outstanding Fees and Penalties

The Superintendent may decline to issue or reissue an Industrial Wastewater Discharge Permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder.

12.4 Water Supply Severance.

Whenever a User has violated or continues to violate any provision of this ordinance, an Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will only recommence, at the User’s expense, after it has satisfactorily demonstrated its ability to comply.

12.5 Public Nuisances.

A violation of any provision of this ordinance, an Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance. The City Attorney or Superintendent may require any person with authority to remedy a violation of this ordinance and correct or abate such nuisance. Any person(s) creating a public nuisance shall be subject to any and all of the nuisance abatement procedures, and remedial provisions of the City of St. Helens Municipal Code, including, but not limited to, this ordinance and SHMC Chapter 8.12, governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

12.6 Contractor Listing.

Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by a User found to

be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the Superintendent.

SECTION 13—AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.1 Upset.

- A. For the purposes of this Section, “upset” means an exceptional incident in which there is unintentional and temporary noncompliance with 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 Superintendent within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) 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 if an enforcement action is 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.

13.2 Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.5 A of this ordinance or the specific prohibitions in Section 2.5 (B)(3) through (18) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

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

13.3 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 any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsection (C) and (D) of this section.

C. Notice of a bypass shall be provided as follows:

- (1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent, at least ten (10) days before the date of the bypass, if possible.
- (2) A User shall submit oral notice to the Superintendent of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission

shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Superintendent may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Bypass

- (1) Bypass is prohibited, and the Superintendent may take an enforcement action against a User for a bypass, unless:
 - (a) The 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 (3) of this section.
- (2) The Superintendent may approve an anticipated bypass, after considering its adverse effects, if the Superintendent determines that it will meet the three conditions listed in subsection (D)(1) of this section.

SECTION 14—WASTEWATER TREATMENT RATES [RESERVED]

SECTION 15—MISCELLANEOUS PROVISIONS

15.1 Wastewater Discharge and Pretreatment Program Charges and Fees.

- A. The City shall charge fees to Users based on cost of service for sewer service. Such fees shall be set by resolution and may, from time to time, change the fee amount.
- B. The City may charge fees to Industrial Users based on the costs the City incurs to implement and maintain the City's Industrial Pretreatment Program, including monitoring inspections, performing surveillance, sampling and analyzing a User's discharge, reviewing reports from industrial Users, investigating complaints, reviewing and responding to accidental discharge procedures and construction,

enforcing compliance with the provisions in this ordinance, and for any other costs the City may incur for activities associated with provisions in this ordinance. Such fees shall be set by resolution and may, from time to time, change the fee amount. Such fees shall include but not be limited to:

- (1) Industrial Pretreatment Program Administration fee;
- (2) Industrial Wastewater Discharge Permit issuance and/or renewal fee;
- (3) Demand Inspection Fees for facility inspections performed by the City resulting from violations of this ordinance;
- (4) Demand Sampling and Monitoring Fees for sampling, monitoring, and surveillance performed by the City resulting from violations of this ordinance;
- (5) Any fees assessed to the City by the Approval Authority for specific industrial operations by any User, such as Pulp and Paper Mill operations;
- (6) Enforcement Activities, such as incurred legal costs;
- (7) Fees for filing appeals; and
- (8) Other fees as the City may deem necessary to carry out the requirements contained herein.

C. The Wastewater Discharge and Pretreatment Program Charges and Fees imposed in this Section are separate from all other fees, fines and penalties that are chargeable by the City.

15.2 Severability.

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

15.3 Conflicts.

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