

**ORDINANCE NO. 594**

**ORDINANCE ADOPTING A REVISED SEWER USE AND  
PRETREATMENT PROGRAM FOR THE CITY OF TROUTDALE;  
AMENDING TROUTDALE MUNICIPAL CODE TITLE 13,  
CHAPTER 16.**

**WHEREAS**, The City Wastewater Treatment Plant receives nondomestic discharges which have the potential to cause Treatment Plant operational upsets and NPDES permit violations; and

**WHEREAS**, The Oregon Department of Environmental Quality has strongly recommended that the City develop and implement a pretreatment program to regulate such nondomestic discharges to the Publicly Owned Treatment Works (POTW); and

**WHEREAS**, The existing City Ordinance establishing rules and regulations pertaining to use of the City POTW needs amendment to reflect changes in State and Federal requirements for pretreatment program activities and general discharge limitations promulgated under the Clean Water Act; and

**WHEREAS**, It is the objective of this Ordinance to protect public health and welfare; to prevent the introduction to the POTW of pollutants which will interfere with POTW operations, contaminate sludge, or pass through the POTW inadequately treated into receiving waters or the atmosphere; to protect city personnel and the general public who may come into contact with sewage, sludge or effluent; to ensure compliance with the City Wastewater Treatment Plant's NPDES permit conditions, sludge use and disposal requirements and other applicable Federal and State laws; to improve opportunities to recycle and reclaim wastewater and sludge; and to provide for equitable distribution of program costs; and

**WHEREAS**, This amended Ordinance meets the requirements of applicable State and Federal laws and regulations and provides the legal authority necessary to implement the pretreatment program activities.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE  
CITY OF TROUTDALE THAT:**

Chapter 13.16 of the Troutdale Municipal Code is amended to read as follows:

CHAPTER 13.16  
SEWER USE AND PRETREATMENT ORDINANCE

SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Policy

A. This Ordinance sets forth uniform requirements for discharges of pollutants into the Publicly Owned Treatment Works (POTW) for the City of Troutdale and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403) and the Oregon Administrative Rules (OAR) Chapter 340. The objectives of this Ordinance are:

1. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
2. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving water or the atmosphere or otherwise be incompatible with the POTW;
3. To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its beneficial reuse or disposal in compliance with all applicable statutes and regulations;
4. To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;
5. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public.

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

C. In achieving the objectives of this Ordinance, it shall be the policy of the City to support the community's commerce and industry through accommodation, assistance and cooperation consistent with the City's responsibility to protect the waters of the State and to secure the health, safety and welfare of the residents of the City.

## 1.2 Administration

Except as otherwise provided herein, the Public Works Director shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other City personnel.

## 1.3 Definitions.

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

Accidental Spill Prevention Plan (ASPP). A plan prepared by the industrial user which provides protection for the POTW from accidental discharges of materials which may cause interference, pass through, worker health or safety problems, or damage to the POTW.

Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

Applicable Pretreatment Standards. For any specified pollutant, the City specific pretreatment standards (local limits), State of Oregon pretreatment standards, or EPA's categorical Pretreatment Standards (when effective), whichever standard is appropriate or most stringent.

Approval Authority. The Oregon Department of Environmental Quality (DEQ).

### Authorized Representative of the User.

- (1) If the user is a corporation, authorized representative shall mean:
  - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
  - (b) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- (2) If the user is a partnership, association or sole proprietorship, an authorized representative shall mean: a general partner or proprietor;
- (3) If the user is a Federal, State, or local governmental facility or an agent thereof, an authorized representative shall mean: a director or

highest official appointed or designated to oversee the operation and performance of the activities of the government facility.

- (4) The individuals described in paragraphs 1 through 3 above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration [milligrams per liter (mg/l)].

Categorical Pretreatment Standard. Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471 incorporated herein by reference.

Categorical Discharger. An industrial user covered by one of EPA's categorical Pretreatment Standards.

City. The City of Troutdale or the City Council of Troutdale.

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

Director. The Public Works Director of the City of Troutdale or his duly authorized representative.

Discharge/Indirect Discharge. The introduction of pollutants into a POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Clean Water Act (Act or CWA).

Domestic Wastewater. Liquid and water borne wastes (i.e., sewage and grey water) derived from ordinary living processes and of such character, volume and strength as to permit disposal without special treatment into the POTW.

Equivalent Residential Unit (ERU). A unit of wastewater which incurs the same costs for operation and maintenance as the average volume of domestic wastes discharged from a single-family residence in the wastewater treatment service area.

Existing Source. For a significant industrial user subject to categorical pretreatment standards, an "existing source" is any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

Existing User. For a significant industrial user not subject to categorical pretreatment standards, an "existing user" is any industrial user discharging to the POTW prior to the effective date of this Ordinance.

Grab Sample. A single discrete sample taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.

Grease. Animal, mineral, or vegetable derived oil or grease.

Industrial User. A source of indirect discharge.

Interceptor. 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.

Interference. A discharge which alone or in conjunction with a discharge or discharges from other sources, both: (1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge process, use or disposal; and (2) Therefore causes a violation of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or prevents sewage sludge use or disposal in compliance with applicable Federal statutes, regulations, or permits.

Maximum Allowable Discharge Limit. The maximum concentration (or loading) 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.

Medical Wastes. Isolation wastes, infectious agents, human blood and blood product, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

National Pretreatment Standard. Defined in 40 CFR 403.3 (j) as any regulation containing pollutant discharge limits promulgated by EPA under Section 307(b) and

(c) of the CWA (33 USC 1317) applicable to industrial users, including the general and specific prohibitions found in 40 CFR 403.5.

New Source.

- (1) Any building, structure, facility or installation from which there is or may be a discharge, 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 caused 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 paragraph.

New User. A "new user" is not a "new-source" and is defined as a user that applies to the City for a new building permit or any person who occupies an existing building and plans to discharge to the POTW after the effective date of this Ordinance.

Non-Contact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Cooling water may be generated from any uses such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.

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

Permittee. A person or user issued a wastewater discharge permit from the City.

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, or local governmental entities. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.

pH. A measure of the acidity or alkalinity of a substance, expressed in standard units.

Pollutant. Any substance such as dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment,

rock, agricultural and industrial wastes, which when discharged, alters the chemical, physical, biological or radiological integrity of water.

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the 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).

Pretreatment Requirement. Any substantive or procedural pretreatment requirement, other than a national pretreatment standard, applicable to industrial users.

Priority Pollutants. Any one of the pollutants listed as toxic in regulations promulgated by EPA under Section 307 (33 U.S.C. 1317) of the Act.

Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain types or characteristics of wastewater as established by EPA, DEQ and/or the Director.

Publicly Owned Treatment Works (POTW). 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. The term also means the City.

Sewage. Human excrement and gray water (wastewater from household showers, dishwashing operations, etc.) resulting from ordinary living processes.

Sewer. Any pipe, conduit, ditch, or other device used to collect and transport sewage from the generating source.

Shall, May. "Shall" is mandatory, "may" is permissive.

Significant Industrial User (SIU).

- (1) Any categorical industrial user.
- (2) Any other industrial user which:
  - (a) Discharges 25,000 gallons or more of process wastewater per day, or



- (b) Contributes a process wastewater which makes up five (5) percent or more of the dry weather average hydraulic or organic capacity of the POTW, or
  - (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 a pretreatment standard or requirement.
- (3) Upon a finding that an industrial user meeting the criteria in Subsection Two (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any applicable pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from an industrial user [and in accordance with procedures in 40 CFR 403.8(f)(6)] determine that such industrial user should not be considered a significant industrial user.

Slug Load. Any discharge at a flow rate or concentration which could cause a violation of the discharge standards in Section 2.1 thru 2.4 of this Ordinance or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

State. State of Oregon.

Stormdrain. A sewer which is designed to carry storm waters or drainage rather than sewage or industrial wastes.

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

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

Treatment Plant Effluent. The discharge of treated wastewater from the POTW into waters of the United States.

User. A person who introduces pollutants into a POTW.

Wastewater. Water containing a pollutant.

Wastewater Discharge Permit, (Industrial Wastewater Discharge Permit, Discharge Permit). An authorization or equivalent control document issued by the City to industrial users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this Ordinance.

Wastewater Treatment Plant (WWTP) or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and nondomestic wastewater.

#### 1.4 Abbreviations

The following abbreviations shall have the designated meanings:

● <u>ASPP</u>	-	Accidental Spill Prevention Plan
● <u>BOD</u>	-	Biochemical Oxygen Demand
● <u>CFR</u>	-	Code of Federal Regulations
● <u>COD</u>	-	Chemical Oxygen Demand
● <u>DEQ</u>	-	Department of Environmental Quality
● <u>EPA</u>	-	Environmental Protection Agency
● <u>gpd</u>	-	gallons per day
● <u>l</u>	-	liter
● <u>LEL</u>	-	Lower Explosive Limit
● <u>mg</u>	-	milligrams
● <u>mg/l</u>	-	milligrams per liter
● <u>NPDES</u>	-	National Pollutant Discharge Elimination System
● <u>O&amp;M</u>	-	Operation and Maintenance
● <u>POTW</u>	-	Publicly Owned Treatment Works
● <u>RCRA</u>	-	Resource Conservation and Recovery Act
● <u>SIC</u>	-	Standard Industrial Classification
● <u>SWDA</u>	-	Solid Waste Disposal Act (42 U.S.C. 6901, <u>et seq.</u> )
● <u>TSS</u>	-	Total Suspended Solids
● <u>U.S.C.</u>	-	United States Code

#### 1.5 Use of POTW Required - Unlawful Disposal

- A. No person shall place, deposit or permit to be deposited, upon public or private property within the City or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other waste which may be injurious to the health, safety and well-being of the public or which constitutes a nuisance.

- B. No person shall discharge or cause to be discharged any sewage, garbage, rubbish, rubble or otherwise polluted water to any stormdrain, surface water, ground water or natural outlet unless under permit by DEQ or other appropriate regulatory agency.
- C. No person shall construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage within the corporate limits of the City or in any area under the jurisdiction of the City without a special permit issued by Multnomah County which shall specify the conditions under which such a facility may be built and maintained.
- D. The owner of all houses, buildings, or properties other than accessory buildings, used for human occupancy, employment, or recreation, erected within the City and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is required at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer, either by gravity or with approved pumping facilities, in accordance with the provisions of this chapter within ninety (90) days after the date of official notice to do so; provided, that such public sewer is available or on the property and/or a property line of the property and the structures or buildings are within three hundred (300) feet of the public sewer. In the event that, during the period of ninety (90) days, the owner shall file his written objections with the City Recorder against so being required to install the facilities the City shall not enforce the provisions of this subsection upon the owner, so filing his objections, until the Council shall have, at a meeting thereof, heard the objections of the owner and rendered its decision thereon. The meeting of the Council shall be held not less than ten (10) days or more than forty-five (45) days from and after the date of the filing of the objections with the City Recorder. Not less than ten (10) days prior to the date set by the Council for the meeting, the City shall give due notice of the date set therefor to the owner. The decision of the Council shall be final and no appeal shall be taken therefrom by the owner except as is provided by law.
- E. No unauthorized person shall uncover, make any connections with or opening into, alter or disturb any public sewer or appurtenances thereto and no person shall make any connection to any part of the sewer system without first making an application and securing a permit therefor.

## SECTION 2 - GENERAL REQUIREMENTS

### 2.1 Prohibited Discharge Standards

- A. General Prohibitions: No user shall introduce or cause to be introduced into the POTW any pollutant which causes pass through or interference. These general prohibitions apply to all industrial users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- B. Specific Prohibitions: No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
- (1) Any liquid, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Such pollutants include, but are not limited to, wastestreams with a closed-cup flashpoint of less than 140° F (60° C) using the test methods specified in 40 CFR 261.21. At no time shall two (2) successive readings on an explosion meter, at the point of discharge into the system, (or at any point in the system), be more than five (5%) percent nor any single reading over ten (10%) percent of the lower explosive limit (LEL);
  - (2) Wastewater having a pH less than 6.0 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment;
  - (3) Solid or viscous substances, including but not limited to oil and grease, such that discharge results in stoppage, plugging, breakage, significant obstruction to flow or any other damage to or increased maintenance of sewers or sewerage facilities or results in pass-through;
  - (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

- (5) Wastewater having a temperature greater than 150° F (55° C) 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° F (40° C);
- (6) Petroleum oil, non-biodegradable 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 worker health or safety problems;
- (8) Untreated trucked or hauled pollutants;
- (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 which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent;
- (11) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director in compliance with applicable State or Federal regulations;
- (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, condensate, non-contact cooling water, and unpolluted water unless specifically authorized by the Director;
- (13) Any sludge, screenings, or other residues from the pretreatment of industrial wastes or from industrial processes;
- (14) Medical or infectious wastes, except as specifically authorized by the Director;
- (15) Substances which may cause excessive foaming in the POTW;
- (16) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

- (17) Water added to a wastewater discharge for the sole purpose of dilution as a means to achieve compliance with any pretreatment standard or local discharge limit;
- (18) Grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;
- (19) Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA);
- (20) Any materials identified as hazardous waste according to 40 CFR 261, except as specifically authorized by the Director;
- (21) Any wastewater, which in the opinion of the Director can cause harm either to the collection system, sewage treatment process, or equipment; have an adverse effect on the receiving waters; cause the POTW to violate its NPDES and/or other disposal system permits; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under special agreement by the Director (except that no special waiver shall be given from categorical pretreatment standards).

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 without adequate treatment.

## 2.2 Federal Categorical Pretreatment Standards

Industrial users subject to categorical pretreatment standards shall comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

## 2.3 State Requirements

Industrial users shall comply with applicable State pretreatment standards and requirements set out in OAR Chapter 340 and incorporated herein.

## 2.4 Local Limits

No industrial user shall discharge to the POTW wastewater containing pollutants in excess of limitations specified in its wastewater discharge permit, categorical pretreatment standards or other limits established by the City. The City may establish and revise standards for specific substances. These standards or local limits shall be developed in accordance with 40 CFR Section 403.5 and shall implement the objectives of this Ordinance. Local limits are usually concentration based standards and apply at the point where wastewater is discharged to the POTW (end of the pipe). The Director may impose mass limitations in addition to (or in place of) the concentration-based limits. 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.

## 2.5 Right of Revision

The City reserves the right to establish, by Ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in this Ordinance or the general and specific prohibitions of this Ordinance.

## 2.6 Special Agreement

The City reserves the right to enter into special agreements with industrial 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 industrial 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 403.13.

## 2.7 Dilution

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on users which he believes may be using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

## SECTION 3 - PRETREATMENT OF WASTEWATER

### 3.1 Pretreatment Facilities

Industrial users shall provide necessary wastewater treatment as required to comply with this Ordinance and shall achieve compliance with all applicable pretreatment standards and requirements set out in this Ordinance within the time limitations specified by the Director. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operation procedures shall be submitted to the City for review and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the City under the provisions of this Ordinance.

### 3.2 Additional Pretreatment Measures

- A. Industrial users may be required to restrict their discharge during peak or low 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 take such other actions as may be necessary to protect the POTW and determine the industrial user's compliance with the requirements of this Ordinance.
- B. Industrial users may be required, if discharging into the POTW greater than one (1%) percent of the average daily flow in the POTW, to install and maintain, on his property and at his expense, a suitable storage and flow-control facility to insure equalization of flow over a twenty-four (24) hour period. The facility shall have a capacity for at least fifty percent (50%) of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the Director. A wastewater discharge permit may be issued solely for flow equalization.
- C. Industrial users shall provide grease, oil, and sand interceptors for the proper handling of wastewater containing grease, oils, sand or other harmful constituents in cases where such materials may be discharged into the POTW. All interception units shall be of type and capacity approved by the City in accordance with the City adopted plumbing codes and shall be installed and connected so as to be easily accessible for cleaning, maintenance and inspection. Such interceptor units shall be maintained in continuously efficient operating condition at all times, by the user at his expense.



- D. Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- E. Industrial users may be required to install a control manhole when deemed necessary by the Director, to facilitate observation, sampling and flow measurement of the discharge. Such manholes shall be accessible and safely located and shall be constructed in accordance with plans approved by the City. The manhole shall be installed and maintained by the user at his expense.

### 3.3 Accidental Spill Prevention Plan (ASPP)

Industrial users, as required by the Director, shall provide protection from accidental discharges of materials, which may interfere with the POTW, by developing and implementing an accidental spill prevention plan. Facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the user's cost and expense. An accidental spill prevention plan/slug control plan (ASPP) showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval before implementation of the plan. 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.

- A. Industrial users that store hazardous substances shall implement an approved ASPP. Approval of such plans shall not relieve the industrial user from complying with all other laws and regulations governing the use, storage, and transportation of hazardous substances.
- B. Accidental discharge slug control plans shall address, at a minimum, the following:
  - (1) Description of discharge practices, including non-routine batch discharges;
  - (2) Description and location of stored chemicals and potential entry points to the POTW;
  - (3) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the standards in Sections 2.1 thru 2.4 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.

- C. Industrial users shall notify the City Wastewater Treatment Plant immediately upon the occurrence of a "slug" or "accidental discharge" of substances regulated by this Ordinance. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected industrial user shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the City on account thereof under State or Federal law.
- D. Within five (5) days following an accidental discharge, the industrial user shall submit to the Director a detailed written report describing the cause 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, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this Ordinance or other applicable law.
- E. Signs shall be permanently posted in conspicuous places on the user's premises advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

### 3.4 Deadline for Compliance with Applicable Pretreatment Requirements

Compliance by existing users covered by Categorical Pretreatment Standards shall be within 3 years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate Standard. The City shall establish a final compliance deadline date for any existing user not covered by Categorical Pretreatment Standards or for any categorical discharger when the local limits for said user are more restrictive than EPA's Categorical Pretreatment Standards.

New Sources and "new users" shall install and have in operating condition, and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. New source dischargers and "new users" are required to comply with applicable pretreatment standards within the shortest feasible time (not to exceed 90 days from the beginning of discharge).

Any wastewater discharge permit issued to a categorical discharger shall not contain a compliance date beyond any compliance deadline specified in the appropriate subpart of 40 CFR 425-471, Chapter I, subchapter N. Any other existing user or a categorical discharger that must comply with a more stringent local limit, which is in non-compliance with any local limits, shall be provided with a compliance schedule placed in an industrial wastewater permit to insure compliance within the shortest time feasible.

### 3.5 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 Ordinance in the same manner as the User.

## SECTION 4 - WASTEWATER DISCHARGE PERMITS

### 4.1 Wastewater Survey

When requested by the Director, dischargers of nondomestic wastewater to the POTW shall submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The Director may prepare a form for this purpose and may periodically require users to update the 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 Permit Requirement

No industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director. Failure to complete a permit application shall be deemed a violation of this Ordinance and subjects the industrial user to the sanctions set out in this Ordinance. Any violation of the terms and conditions of the wastewater discharge permit shall be deemed a violation of this Ordinance and subjects the industrial user to the sanctions set out in this Ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirement of Federal, State, and local laws or regulations.

### 4.3 Wastewater Discharge Permitting: Existing Users

Any industrial user that was discharging wastewater into the POTW prior to the effective date of this Ordinance and that wishes to continue such discharges in the future shall, within 90 (ninety) days after notification by the Director, submit a permit application to the City in accordance with Section 4.5 of this Ordinance.

#### 4.4 Wastewater Discharge Permitting: New Source and "New User"

Any new source or "new user" proposing to begin or recommence discharging to the POTW shall obtain a wastewater discharge permit prior to beginning or recommencing such discharge. An application for the permit must be submitted at least 90 days prior to the anticipated discharge date. New Sources and "new users" shall give estimates of the information requested in paragraphs (D) and (E) of Section 4.5.

#### 4.5 Wastewater Discharge Permit Application Contents

All users required to obtain a wastewater discharge permit must submit, at a minimum, the following information on the wastewater discharge permit application form approved by the Director. Categorical dischargers submitting the following information shall have complied with 40 CFR 403.12 (b) (baseline monitoring report requirements).

- A. Identifying information. The name, mailing address, location (if different from the mailing address), telephone number, and the operator and owners of the facility;
- B. Permits. A list of any environmental control permits held by or for the facility;
- C. Description of operations. A brief description of the nature, average rate of production, and Standard Industrial Classification (SIC) Codes of the operation(s) carried out by the user; 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; number and type of employees; hours of operation; each product produced by type, amount, process or processes, and rate of production; type and amount of raw materials processed (average and maximum per day) and the time and duration of discharges. This description should also include a schematic process diagram which indicates points of discharge to the POTW from the regulated or manufacturing processes, as well as site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connection, inspection manholes, sampling chambers and appurtenances by size, location and elevation.
- D. Flow Measurement.
  - (1) Categorical Discharger:

Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

    - (i) Regulated or manufacturing process streams; and

- (ii) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6 (e).

(2) Industrial user:

Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

- (i) Total process flow, wastewater treatment plant flow, total plant flow or individual manufacturing process flow as required by the Director.

The City may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

E. Measurements of pollutants.

(1) Categorical Discharger:

- (i) Identify the applicable pretreatment standards for each regulated or manufacturing process;
- (ii) In addition, submit the results of sampling and analysis identifying the nature and concentration (or mass) where required by the Categorical Pretreatment Standard or as required by the City of regulated pollutants (including standards contained in Sections 2.1 through 2.4, as appropriate) in the discharge from each regulated or manufacturing process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Section 6.
- (iii) Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6 (e) for a categorical discharger covered by a categorical pretreatment standard this adjusted limit along with supporting data shall be submitted as part of the application.

(2) Industrial user:

- (i) Identify the applicable pretreatment standards for its wastewater discharge.
- (ii) In addition, submit the results of sampling and analysis identifying the nature and concentration (or mass where required by the City) of regulated pollutants contained in Section 2.1 through 2.4, as appropriate in the discharge. Both

daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Section 6.

- (iii) Take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- (iv) Where the Director developed alternate concentration or mass limits because of dilution this adjusted limit along with supporting data shall be submitted as part of the application.

F. Certification. A statement, reviewed by an authorized representative of the user and certified by a qualified professional as outlined in Section 4.6, indicating whether the applicable Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) and/or additional pretreatment is required for the user to meet the applicable Pretreatment Standards and Requirements.

G. Compliance Schedule. If additional pretreatment and/or O and M will be required to meet the applicable Pretreatment Standards; the shortest schedule by which the user will provide such additional pretreatment and/or O and M. The user's schedule shall conform with the requirements of Section 5.3. The completion date in this schedule shall not be later than the compliance date established pursuant to Section 3.4 of the Ordinance.

H. Additional Information. Any other information as may be deemed necessary by the Director to evaluate the wastewater discharge permit application.

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

#### 4.6 Signatory and Certification Requirement

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

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

aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

#### 4.7 Wastewater Discharge Permit Decisions

The Director will evaluate the data furnished by the industrial user and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application, the Director will determine whether or not to issue a wastewater discharge permit. Upon a determination to issue, the permit shall be issued within thirty (30) days of full evaluation and acceptance of the data furnished. The Director may deny any application for a wastewater discharge permit.

#### 4.8 Wastewater Discharge Permit Contents

Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Director 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. Wastewater discharge permits shall contain the following conditions:

- (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
- (2) A statement that the wastewater discharge permit is non-transferable without prior notification to and approval from the City, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Applicable Federal, State, and local effluent limits;
- (4) Self monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
- (5) Requirement for immediate notification to the City where self-monitoring results indicate non-compliance;
- (6) Requirement to report a by-pass or upset of a pretreatment facility;

- (7) Requirement for the SIU who reports non-compliance to repeat the sampling and analysis and submit results to the City within thirty (30) days after becoming aware of the violation;
- (8) A statement of applicable civil, criminal, and administrative penalties for violation of pretreatment requirements, and any applicable compliance schedule.

B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) Requirements for the installation and maintenance of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit;
- (8) Any special agreements the Director chooses to continue or develop between the City and industrial user as long as such agreements do not violate any applicable pretreatment standards or requirements;



- (9) Other conditions as deemed appropriate by the Director to ensure compliance with this Ordinance, and State and Federal laws, rules, and regulations;
- (10) Requirements for maintaining and retaining plant records relating to wastewater discharge.

#### 4.9 Wastewater Discharge Permit Appeals

Any person, including the user may petition the City to reconsider the terms of a wastewater discharge permit within ten (10) days of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. If the City fails to act within fifteen (15) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.
- E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Municipal Court of the City of Troutdale, Multnomah County, Oregon within ten (10) days.

#### 4.10 Wastewater Discharge Permit Duration

Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

#### 4.11 Wastewater Discharge Permit Modification

The Director may modify the wastewater discharge permit for good cause including, but not limited to, the following:

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to the City's POTW or personnel, or to the receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required report;
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- H. To correct typographical or other errors in the wastewater discharge permit;  
or
- I. To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

The filing of a request by the permittee for a permit modification does not stay any permit condition.

#### 4.12 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least thirty (30) days advance notice to the Director and the Director approves the wastewater discharge permit transfer. The notice to the Director must include a written certification by the new owner and/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.

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

#### 4.13 Wastewater Discharge Permit Revocation

Wastewater discharge permits may be revoked for, but not limited to, the following reasons:

- A. Failure to notify the City of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the City of changed conditions;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the City timely access to the facility premises and records;
- G. Failure to meet discharge limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer use charges or permit fees;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of a permitted facility;

- M. Invocation by the City of emergency provisions as cited in Section 10.7 of the Ordinance;
- N. Failure to properly maintain oil, grease or sand interceptors in an efficient operating condition; or
- O. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Ordinance.

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

#### 4.14 Wastewater Discharge Permit Reissuance

A user, required to have a wastewater discharge permit, shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application, in accordance with Section 4.5 of this Ordinance, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit. A user, whose existing wastewater discharge permit has expired and has submitted its re-application in the time period specified herein, shall be deemed to have an effective wastewater discharge permit until the City issues or denies the new wastewater discharge permit. A user, whose existing wastewater discharge permit has expired and who failed to submit its re-application in the time period specified herein, will be deemed to be discharging without a wastewater discharge permit.

### SECTION 5 - REPORTING REQUIREMENTS

#### 5.1 Final Compliance Report / Initial Compliance Report

- A. Within ninety (90) days following the date for final compliance by the Significant Industrial User with applicable pretreatment standards and requirements set forth in this Ordinance, in a wastewater discharge permit, or within 30 days following commencement of the introduction of wastewater into the POTW by a new source or "new users" considered by the City to fit the definition of SIU, the affected user shall submit to the City a report containing the information outlined in Paragraph (D) - (F) of Section 4.5.
- B. For users subject to equivalent mass or concentration limits established by the City in accordance with procedures established in 40 CFR 403.6 (c), this report shall contain a reasonable measure of the user's long term production

rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the users' actual production during the appropriate sampling period.

## 5.2 Periodic Compliance Report

- A. Any user that is required to have a Wastewater Discharge Permit and performs self-monitoring shall submit to the City during the months of June and December, unless required on other dates or more frequently by the City, a report indicating the nature of the discharge over the previous reporting period. The frequency of monitoring shall be as prescribed within the wastewater discharge permit. At a minimum, SIUs shall sample their discharge at least twice per year.
- B. The report shall include a record of the concentrations (and mass if specified in the wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and a record of all flow measurements (average and maximum) taken at the designated sample locations, and shall also include any additional information required by this Ordinance or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported. If a user sampled and analyzed, using methodologies in 40 CFR Part 136, more frequently than what was required by the City or by this Ordinance, it must submit all results of sampling and analysis of the discharge during the reporting period.
- C. Any user subject to equivalent mass or concentration limits established by the City or by unit production limits specified in the applicable categorical standards, shall report production data as outlined in Section 5.2 (B).
- D. If the City calculated limits to factor out dilution flows or non-regulated flows, the user will be responsible for providing flows from the regulated process, dilution flows and non-regulated flows.
- E. Flows shall be reported on the basis of actual measurement; provided, however, that the City may accept reports of average and maximum flows estimated by verifiable techniques if the City determines that an actual measurement is not feasible.
- F. Sampling shall be representative of the user's daily operations and shall be taken in accordance with the requirements specified in Section 6.

- G. The City may require reporting by users that are not required to have a wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent or determine any other factor which is related to the operation and maintenance of the POTW.
- H. The City may require self-monitoring by the user. If requested by the user or if user fails to perform required sampling and testing, the City may perform the compliance monitoring needed to prepare the compliance reports required under this section. If the City performs such periodic compliance monitoring, it may charge the user for such monitoring, based upon the costs incurred by the City for the sampling and analyses. The City is under no obligation to perform periodic compliance monitoring for a user.

### 5.3 Compliance Schedules

If a user is required to install additional pretreatment or provide additional O & M, it shall submit a proposed compliance schedule containing the following information:

- A. The schedule shall contain increments of progress 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 (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.). No increment shall exceed nine (9) months.
- B. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the City including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return to the construction schedule established. In no event shall more than nine (9) months elapse between such progress reports.

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.

### 5.4 Notification of Significant Production Changes

Any user operating under a wastewater discharge permit incorporating equivalent mass or concentration limits shall notify the City within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not providing a notice of such anticipated

change will be required to comply with the existing limits contained in its wastewater discharge permit.

#### 5.5 Hazardous Waste Notification

Industrial users shall provide written notification in accordance with 40 CFR 403.12 (p) of the discharge into the POTW of more than fifteen (15) kilograms per month of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261.

In the case of any notification made under this paragraph, an industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

#### 5.6 Notice of Potential Problems, Including Accidental Spills, Slug Loadings

Any industrial user shall notify the City immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined in Section 1.3. The notification shall include the concentration, volume and corrective action. Steps being taken to reduce any adverse impact should also be identified during the notification. Any industrial user who discharges a slug load of pollutants shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the City under state or federal law.

#### 5.7 Non-Compliance Reporting

If sampling performed by a user indicates a violation, the user shall notify the City within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling within five (5) days and submit the results of the repeat analysis to the City within thirty (30) days after becoming aware of the violation. Resampling shall continue until it is evident that the discharge is in compliance.

#### 5.8 Notification of Changed Discharge

All users shall notify the City at least thirty (30) days in advance of any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, and the hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12 (p). Changes in volume or character of discharge may result in changes in permittee's sewer use fees.

#### 5.9 TTO Reporting

Categorical dischargers which are required by EPA to eliminate and/or reduce the levels of toxic organics (TTO's) discharged into the sewer system must follow the

Categorical Pretreatment Standards for that industry. When required for that categorical standard, they must also meet the following requirements:

- A. Sample, as part of the application requirements, for all the organics listed under the TTO limit (no exceptions);
- B. If no TTO's are used at the facility or the industrial user elects to develop a solvent management plan in lieu of continuously monitoring for TTO:

The categorical discharger must routinely submit a certification statement as part of its self-monitoring report that there has been no dumping of any toxic organic into the wastewater and that it is implementing a solvent management plan as approved by the City.

(Note: Facilities that have sampled initially and can verify that there are no toxic organics utilized should not have to develop a solvent management plan, but must make the certification statement of "no use of toxic organics during the reporting period".)

#### 5.10 Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the City as the Director may require.

#### 5.11 Record Keeping

Users subject to the reporting requirements of this Ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or POTW, or where the user has been specifically notified of a longer retention period by the Director.

Receipts or manifests for the proper disposal of hazardous wastes shall be retained by the user and shall be available for review at the time of inspection.



## SECTION 6 - SAMPLING AND ANALYTICAL REQUIREMENTS

### 6.1 Sampling Requirements for Users

- A. A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The City may waive flow-proportional composite sampling for any user that demonstrates that flow-proportional is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.
- B. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the City and contained in the user's wastewater discharge permit. For categorical dischargers, 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 of 40 CFR 403.6 (e) in order to evaluate compliance with the Applicable Pretreatment Standards.
- C. 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 it must submit all results of sampling and analysis of the discharge as part of its self-monitoring report.

### 6.2 Analytical Requirements

All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

### 6.3 City Monitoring of User's Wastewater

The City will follow the same procedures as outlined in Sections 6.1 and 6.2 when sampling and analyzing user discharge samples.

## SECTION 7 - COMPLIANCE MONITORING

### 7.1 Inspection and Sampling

The City shall have the right to enter the facilities of any user to ascertain whether the objectives of this Ordinance, and any wastewater discharge permit or order issued hereunder, is being met and whether the user is complying with all requirements thereof. Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Director shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. 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 Director and shall not be replaced. The costs of clearing such access shall be born by the user.
- D. Unreasonable delays in allowing the Director access to the user's premises shall be a violation of this Ordinance.

### 7.2 Monitoring Facilities

The Director may require the user to provide and operate, at the user's own expense, a monitoring facility to allow inspection, sampling, and flow measurements of each sewer discharge to the City. Each monitoring facility shall be situated on the user's premises, except where such a location would be impractical or cause undue hardship on the user, the City may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. The Director, whenever applicable, may require the construction and

maintenance of sampling facilities at other locations (for example, at the end of a manufacturing line or wastewater treatment system).

There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

All monitoring facilities shall be constructed and maintained in accordance with all applicable construction standards and specifications.

The Director 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 regularly to ensure accuracy.

### 7.3 Search Warrants

If the Director has been refused access to a building, structure or property, or any part thereof, and has probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect as part of a routine inspection program of the City designed to verify compliance with this Ordinance or any wastewater discharge permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Director shall seek issuance of a search and/or seizure warrant from the Municipal Court of the City of Troutdale. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Director in the company of a uniformed police officer of the City.

### 7.4 Vandalism

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in this Ordinance.

## SECTION 8 - CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from City 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 City, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. When requested and demonstrated by the user 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 Part 2.302 will not be recognized as confidential information and will be available to the public without restriction.

#### SECTION 9 - PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE

The City shall publish annually, in January, in the City's designated newspaper, a list of the industrial users which, during the previous twelve (12) months, were in significant non-compliance with applicable pretreatment standards and requirements. The term significant non-compliance shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six- (6-) month period exceed the discharge limit or average limit for the same pollutant parameter by any amount;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other discharge violation that the City believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public);
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City'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 a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide, within thirty (30) 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 non-compliance; or
- H. Any other violation(s) which the City has reason to believe is significant.

## SECTION 10 - ADMINISTRATIVE ENFORCEMENT REMEDIES

### 10.1 Notification of Violation

When the Director finds that an industrial 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, the Director may serve upon that industrial user a written Notice of Violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the industrial user to the Director. Submission of this plan in no way relieves the industrial 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 City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

### 10.2 Consent Orders

The Director is hereby empowered to enter into Consent Orders, assurance of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the non-compliance. Such Orders shall include specific action(s) to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as administrative orders issued pursuant to Section 10.4 and 10.5 below and shall be judicially enforceable. Use of a Consent Order shall not be a bar against, or prerequisite for, taking any other action against the industrial user.

### 10.3 Show Cause Hearing

The Director may order an industrial user which 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, to appear before the Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the industrial user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the industrial 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 industrial user. Immediate enforcement action may be

pursued following the hearing date whether or not the industrial user appears as notified. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the industrial user.

#### 10.4 Compliance Orders

When the Director finds that an industrial 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, the Director may issue an order to the industrial user responsible for the discharge directing that the industrial user come into compliance within a time specified in the order. If the industrial user does not come into compliance within the time specified in the order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the non-compliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. The Director may continue to require such additional self-monitoring for at least ninety (90) days after consistent compliance has been achieved, after which time the self-monitoring conditions in the wastewater discharge permit shall apply again. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the industrial user.

#### 10.5 Cease and Desist Orders

When the Director finds that an industrial 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 industrial user's past violations are likely to recur, the Director may issue an order to the industrial user directing it to cease and desist all such violations and directing the industrial 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 industrial user.

#### 10.6 Administrative Fines

- A. When the Director 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, the Director may fine such user in an amount not to exceed \$1000. 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. Assessments may be added to the user's next scheduled sewer service charge and the Director shall have such other collection remedies as may be available for other service charges and fees.
- C. Unpaid charges, fines, and penalties shall, after 30 (thirty) calendar days, be assessed an additional penalty of twelve percent (12%) of the unpaid balance and interest shall accrue thereafter as a rate of one percent (1%) per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.
- D. Users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within ten (10) days of being notified of the fine. Where the Director believes that a request has merit, the Director shall convene a hearing on the matter within fifteen (15) days of receiving the request from the user. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The city may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- E. 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 Director may immediately suspend an industrial user's wastewater discharge permit (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, threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

- A. Any industrial user notified of a suspension of its wastewater discharge permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment

has passed, unless the termination proceedings in Section 10.8 of this Ordinance are initiated against the user.

- B. An industrial user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director prior to the date of any show cause or termination hearing under Sections 10.3 and 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 Revocation of Permit (Non-Emergency)

In addition to the provisions in Section 4.13 of this Ordinance, any industrial user that violates the following conditions is subject to wastewater discharge permit revocation:

- A. Violation of 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.

The noncompliant user will be notified of the proposed revocation of its discharge permit 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 City 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 Director 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, the Director may petition the Municipal



Court of the City of Troutdale through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this Ordinance on activities of the user. The City 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 which 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 shall be liable to the City for a civil penalty up to \$1000 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 Director 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, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

### 11.3 Criminal Prosecution

- A. A user which has willfully or negligently violated any provision of this Ordinance, 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 not more than \$1000 per violation, per day, or imprisonment for not more than 1 year, or both.
- B. A user which has willfully or negligently introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$1000 and/or be subject to imprisonment for 1 year. 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 which knowingly made any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Ordinance, wastewater discharge permit, or order issued hereunder; or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Ordinance, wastewater discharge permit, or order issued hereunder, shall, upon conviction, be punished by a fine of not more than \$1000 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 not more than \$3000 per violation per day, or imprisonment for not more than three (3) years, or both.

#### 11.4 Remedies Non-exclusive

The provisions in Section 10 through 12 of this Ordinance are not exclusive remedies. The City reserves the right to take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City reserves the right to take other action against any user when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

### SECTION 12 - SUPPLEMENTAL ENFORCEMENT ACTION

#### 12.1 Water Supply Severance

Whenever 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, water service to the user may be severed. Service will only recommence, at the user's expense, after the user has satisfactorily demonstrated its ability to comply.

### SECTION 13 - MISCELLANEOUS PROVISIONS

#### 13.1 Pretreatment Charges and Fees

The City may adopt reasonable fees for reimbursement of costs of development and implementation of the City's Pretreatment Program which may include:

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

13.2 Severability

The invalidity of any section, subsection, paragraph, sentence, or phrase of this Ordinance which is incorporated herein, shall not affect the validity of the remaining portions thereof.

13.3 Effective Date

This Ordinance shall go into effect 30 days following its passage and approval as provided by law.

**PASSED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THIS 13th DAY OF APRIL, 1993.**

YEAS: 6  
 NAYS: 0  
 ABSTAINED: 0

  
 \_\_\_\_\_  
 Gene Bui, Mayor

Dated: April 13, 1993

ATTEST:

  
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 Valerie J. Raglione, CMC  
 City Recorder