

ORDINANCE NO. 753

AN ORDINANCE OF THE CITY OF WILSONVILLE AMENDING WILSONVILLE CODE CHAPTER 8, ENVIRONMENT TO ADD A STORMWATER SECTION AND MAKE OTHER MODIFICATIONS.

WHEREAS, Chapter 8 was last modified via Ordinance 689 in January 2011; and

WHEREAS, portions of Chapter 8, Environment needs to be revised to update standards and comply with State and Federal laws and regulations; and

WHEREAS, the City of Wilsonville (City) was issued a National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Discharge Permit from the Oregon Department of Environmental Quality, which was renewed on March 16, 2012; and

WHEREAS, the NPDES MS4 Discharge Permit requires the City to have the legal authority to enforce the provisions of the permit; and

WHEREAS, Implementation Measure SC-1a of the 2012 Stormwater Master Plan requires the City to update Chapter 8, Environment to address implementation of the Stormwater Program and the requirements of the NPDES MS4 Discharge Permit; and

WHEREAS, the City Council has conducted a properly noticed public hearing on the proposed changes, and based upon the staff report in the matter and the entire record of the hearing, concludes the code amendments comport with law and are otherwise in the public interest;

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section 1. The above recitals are incorporated by reference as if fully set forth herein.

Section 2. Chapter 8, Environment of the Wilsonville Code is modified and amended as set forth in Exhibit A, attached hereto and incorporation by reference as if fully set forth herein.

Section 3. The City Recorder shall conform these amendments to the City's code format and to correct any scrivener's errors.

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the 20th day of October, 2014 and scheduled for a second reading at the regular meeting thereof on the 5th day of November, 2014, commencing at the hour of 7:00 P.M. at the Wilsonville City Hall.

Sandra C. King, MMC, City Recorder

ENACTED by the City Council on the 5th day of November, 2014 by the following votes:

Yes: -4- No: -0- Abstain: -1-

Sandra C. King, MMC, City Recorder

DATED and signed by the Mayor this _____ day of November, 2014.

TIM KNAPP, Mayor

SUMMARY OF VOTES:

Mayor Knapp -	Yes
Council President Starr -	Abstain
Councilor Goddard -	Yes
Councilor Fitzgerald -	Yes
Councilor Stevens -	Yes

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ENVIRONMENT

GENERAL PROVISIONS

8.000 General Provisions – Environment

(1) Chapter 8 of this Code is enacted for the purpose of promoting the general public welfare by ensuring procedural due process in the administration and enforcement of the City's Comprehensive Plan, Design Review, Permitting Process, Building Code, Development Standards and Public Works Standards.

(2) This Chapter shall be known as the Environment Ordinance and includes those ordinances familiarly referred to as the Water Conservation Ordinance, Public Sanitary Sewer Use Ordinance, Industrial Wastewater Ordinance, Storm Water Ordinance, and Garbage Disposal Ordinance, and Environment Enforcement, etc.

8.002 Administration.

Except as otherwise provided herein, the Public Works Director, hereinafter referred to as “Director”, shall administer, implement and enforce the provisions of this Chapter. Any powers granted to or duties imposed upon the Director may be delegated by the Director to a duly authorized representative.

8.004 Abbreviations. The following abbreviations shall have the designated meanings:

(1)	<u>BOD</u>	Biochemical Oxygen Demand
(2)	<u>BMP</u>	Best Management Practices
(3)	<u>BMR</u>	Baseline Monitoring Reports
(4)	<u>CFR</u>	Code of Federal Regulations
(5)	<u>CIU</u>	Categorical Industrial User
(6)	<u>COD</u>	Chemical Oxygen Demand
(7)	<u>DEQ</u>	Oregon Department of Environmental Quality
(8)	<u>US EPA</u>	U.S. Environmental Protection Agency
(9)	<u>gpd</u>	Gallons Per Day
(10)	<u>IU</u>	Industrial User
(11)	<u>mg/l</u>	Milligrams per liter
(12)	<u>NPDES</u>	National Pollutant Discharge Elimination System
(13)	<u>NSCIU</u>	Non-Significant Categorical Industrial User
(14)	<u>O&M</u>	Operation and Maintenance
(15)	<u>POTW</u>	Publicly Owned Treatment Works
(16)	<u>RCRA</u>	Resource Conservation and Recovery Act
(17)	<u>SIC</u>	Standard Industrial Classification
(18)	<u>SIU</u>	Significant Industrial User
(19)	<u>SNC</u>	Significant Non-Compliance
(20)	<u>SWDA</u>	Solid Waste Disposal Act (42 U.S.C. 6901, <u>et seq.</u>)
(21)	<u>TSS</u>	Total Suspended Solids

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(22) USC United States Code

8.006 Definitions. For the purpose of this Chapter, the following terms, words, phrases and their derivations shall have the meaning given herein, unless the context specifically indicates otherwise:

(1) Act or “the Act”. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

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

(3) Authorized or Duly Authorized Representatives of the User.

(a) If the user is a corporation, authorized representative shall mean:

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

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

(b) If the user is a partnership, or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.

(c) If the user is a Federal, State or local government facility the highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

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

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(4) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20° centigrade expressed in terms of weight and concentration (milligrams per liter mg/l).

(5) Best Management Practices or BMP's means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMP's include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMP's may also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.

(6) Building Drain. Shall mean that part of the lowest piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the exterior walls of the buildings and which conveys it to the building sewer, which begins five (5) feet (1.524 meters) outside of the building exterior wall.

(7) Building Sewer (Sanitary). Shall mean that part of the horizontal piping of a drainage system that extends from the end of a building drain and that receives the sewage discharge of the building drain and conveys it to a public sanitary sewer, private sanitary sewer, private sewage disposal system, or other point of disposal (aka sanitary sewer lateral)..

(8) Building Sewer (Storm). Shall mean that part of the horizontal piping of a drainage system that extends from the end of a building drain and that receives the stormwater or other approved drainage, but no sewage discharge from a building drain, and conveys it to a public stormwater system, private stormwater system or other point of disposal (aka storm sewer lateral).

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

(10) Categorical Industrial User. An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

(11) Chemical Oxygen Demand (COD). A measure of oxygen required to oxidize all compounds, both inorganic and organic in water. COD is expressed as the amount of oxygen consumed from chemical oxidant in mg/l during a specific test.

(12) City. The City of Wilsonville, Oregon or the City Council of Wilsonville, Oregon or a designated representative of the City of Wilsonville, Oregon.

(13) City Authorized Representative for Stormwater. A Representative selected by the Community Development Director to oversee stormwater activities and enforcement.

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(14) Color. The optical density at the visual wavelength of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

(15) Combined Sewer. Shall mean a sewer receiving both surface runoff and sewage.

(16) Commercial. Shall mean for the purposes of this Chapter, all buildings or structures of which are not designed for the purposes of these sections as residential or industrial in keeping with the City's zoning and building code provisions. Commercial when used in the context of this chapter's pretreatment standards shall mean industrial.

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

(18) Contractor. Shall mean a person or persons, corporation, partnership or other entity who is a party to an agreement with the City.

(19) Cooling Water. The water discharged from any use such as air conditioning, cooling or refrigeration, to which the only pollutant added, is heat.

(20) Control Authority. The City of Wilsonville, Oregon or designated representative of the City, tasked with the administration of this Chapter.

(21) Customer. Shall mean any individual, firm, company, association, society, corporation, group or owner, who receives utility services from the City such as water, sanitary sewer, stormwater and streetlights.

(22) Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

(23) Daily Maximum Limits. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of a day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measure of the pollutant concentration derived from all the measurements taken that day.

(24) Department of Environmental Quality or DEQ. The Oregon Department of Environmental Quality or where appropriate, the term may also be used any duly authorized official of the Department.

(25) Director. The City of Wilsonville Public Works Director for the City of Wilsonville or designated representative of the Director.

(26) Discharge. The discharge or the introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c) or (d), of the Act.

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(27) Environmental Protection Agency or EPA. The US Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director, the Regional Administrator or other duly authorized official of said agency.

(28) Existing Source. Any source of discharge that is not a “new source”.

(29) Garbage. Shall mean all refuse and solid wastes, including ashes, rubbish in cans, debris generally, dead animals, street cleaning and industrial wastes and things ordinarily and customarily dumped, solid wastes from domestic and commercial preparation, cooking and dispensing food, and from the handling, storage and sale of product, but not including source separated recyclable material purchased from or exchanged by the generator for fair market value for recycling sewage and body waste.

(30) Grab Sample. A sample that is taken from a waste stream on a one-time basis without regard to the flow in the waste stream over a period of time not to exceed 15 minutes.

(31) Holding Tank Waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(32) Illicit Discharge. Any discharge to the public or natural stormwater conveyance system that is not composed entirely of stormwater, except discharges governed by and in compliance with an NPDES permit.

(33) Indirect Discharge or Discharge. The introduction of pollutants into the POTW from a non-domestic source.

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

(35) Industrial. Shall mean in the context of building sanitary sewer permits and connections, all buildings or structures in which a product is manufactured, stored, or distributed, or any combination of the above in keeping with the City’s zoning and building code provisions. It shall otherwise mean in the context of this Chapter for pretreatment standards, non-domestic.

(36) Industrial User. A source of indirect discharge.

(37) Industrial Wastewater. Any non-domestic wastewater originating from a nonresidential source.

(38) Interference. A discharge, which, alone or in conjunction with a discharge or discharges from other sources:

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(a) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes; use or disposal; and

(b) Therefore is a cause of a violation of the City's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued there under (or any more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act.

(39) Local Limits. Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in this Chapter.

(40) Maximum Allowable Headwork's Loading. The maximum pollutant loading that can be received at the headwork's of the POTW and be fully treated to meet all disposal limits and without causing interference. This value is calculated in the derivation of Technically Based Local Limits.

(41) Major Sanitary Sewer Line Extension. Shall mean the extension of a sanitary mainline that is, or will be, located within public rights-of-way or dedicated easements.

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

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

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

(45) National Pretreatment Standard. National pretreatment standard is defined in 40 CFR 403.3(1) as any regulation containing pollutant discharge limits promulgated by EPA under Section 307(b) and (c) of the Clean Water Act applicable to users, including the general and specific prohibition found in 40 CFR 403.5.

(46) Municipal Separate Storm Sewer System (MS4). A system of conveyances, including roads, ditches, catch basins, and storm drains that are owned or operated by a public entity.

(47) New Source.

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(a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of Proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such Standards are hereafter promulgated in accordance with that section provided that:

- 1) The building, structure, facility or installation is constructed at a site at which no other source is located; or
- 2) The building, structure, facility or installation completely replaces the process of production equipment that causes the discharge of pollutants at the existing source or
- 3) The production of wastewater generating processes of the buildings, structure, facility or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent factors, such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity, as the existing source should be considered.

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

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

- 1) Begun, or caused to begin as part of a continuous on-site construction program;
 - a) Any placement, assembly, or installation of facilities or equipment; or
 - b) 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 for equipment or
- 2) Entered into a binding or contractual obligation for the purchase of facilities of equipment that is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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

(49) NPDES Stormwater Permit. A National Pollutant Discharge Elimination System permit issued pursuant to Section 402 of the Clean Water Act (33 U.S.C. 1342).

(50) NPDES Waste Discharge Permit. A National Pollutant Discharge Elimination System permit issued pursuant to ORS 468B.050 and the Federal Clean Water Act.

(51) Official. Shall be the Building Official for the City of Wilsonville.

(52) Owner. Shall mean the person(s) who may hold title to or lease the property for which water service has or will be provided.

(53) 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 the City's NPDES Permit (including an increase in the magnitude or duration of a violation).

(54) 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.

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

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

(57) Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration in the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. This reduction or alteration may be obtained by physical, chemical or biological processes, by process changes or by other means except by diluting the concentration of the pollutant unless allowed by the applicable Pretreatment Standard.

(58) Pretreatment Requirement. Any substantive or procedural requirements related to the pretreatment, other than national pretreatment standards, imposed on an industrial user.

(59) Pretreatment Standard or Standard. Prohibited discharge standards, categorical Pretreatment standards and Local Limits.

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(60) 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.

(61) Properly Shredded Garbage. Shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sanitary sewers, with no particle greater than one half (1/2) inch (1.27 centimeters) in any dimension.

(62) Public Sewer. Shall mean a sewer, either sanitary or storm, in which all the owners of abutting property have equal rights, and which is controlled by public authority.

(63) Public Stormwater System. A stormwater system owned or operated by the City of Wilsonville.

(64) Publicly Owned Treatment Works or POTW. A “treatment works” as defined in 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 collection, storage, treatment, recycling and reclamation of sewage, or industrial wastes, and any conveyances which convey wastewater to a treatment plant or other point of discharge. The term also means the municipal entity having responsibility for the operation and maintenance of the system.

(65) Public Works Director. The person designated by the City to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this Chapter or their duly authorized representative.

(66) Residential. Shall mean for the purposes of this Chapter, building sewers and connections, buildings or structures, which are built to be occupied for living purposes in keeping with the City’s zoning and building code provisions.

(67) Residential Users. Persons only contributing sewage wastewater to the municipal wastewater system.

(68) Receiving Stream or Water of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Oregon or any portion thereof.

(69) Sanitary Sewer. Shall mean a City sewer which carries sewage and to which storm, surface and ground water are not intentionally admitted.

(70) Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

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(71) Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.)

(72) Sewer. Shall mean a pipe or conduit for carrying sewage in the case of sanitary (wastewater) sewer lines. Shall mean a pipe or conduit for carrying stormwater runoff, surface waters or drainage in the case of storm water lines.

(73) Sewer Lateral. See Building Sewer – Sanitary and Storm definitions.

(74) Significant Industrial User.

(a) Except as provided in paragraph (b) of this section, the term Significant Industrial User means:

- 1) An industrial users subject to Categorical Pretreatment Standards or
- 2) Any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blow-down wastewater); contributes a process waste stream which makes up 5 per cent of more of the average dry weather hydraulic or organic capacity of the POTW or is designated as such by the City on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(b) The City may determine that an Industrial User subject to the categorical Pretreatment Standards is a Non-significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met.

- 1) The Industrial User, prior to City's findings, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
- 2) The Industrial User annually submits the certification statement required in Section 8.310(14) together with any additional information necessary to support the certification statement; and
- 3) The Industrial User never discharges any untreated concentrated wastewater.

(c) Upon finding that an industrial user meeting the criteria in paragraph (a)(2) of this section has no reasonable potential for adversely affecting the POTW's operation or

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for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with CFR 403.8(F)(6), determine that such industrial user is not a significant industrial user.

(75) Slug Load or Slug Discharge. Any discharge at a flow rate or concentration which has the potential to cause a violation of the specific discharge prohibitions of this article. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, Local Limits of Permit conditions.

(76) State. State of Oregon.

(77) Storm Drain. (Sometimes termed "storm sewer"). Shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling waters.

(78) Stormwater. Any flow occurring during or following any form of natural precipitation and resulting there from, including snow melt.

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

(80) Toxic Pollutant. One of the pollutants or combination of those pollutants listed as toxic in regulations promulgated by the Environmental Protection Agency under the provision of Section 307 (33 U.S.C. 1317) of the Act.

(81) Treatment Plant Effluent. Any discharge of pollutants from the POTW into waters of the state.

(82) User or Industrial User. Any person who contributes, or causes or allows the contribution of sewage, or industrial wastewater into the POTW, including persons who contribute such wastes from mobile sources.

(83) Wastewater. The liquid and water-carried industrial wastes, or sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which is contributed to the municipal wastewater system.

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

(85) Water is water from the City water supply system

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(86) Water Course. Shall mean a channel in which a flow of water occurs, either continuously or intermittently.

8.008 Miscellaneous Provisions

(1) Pretreatment Charges and Fees. The City may adopt, from time to time, by Administrative Authority, in the City's Master Fee Schedule reasonable charges and fees for reimbursement of costs of setting up and operating the City's Pretreatment Program which may include;

(a) Fees for permit applications including the cost of processing such applications;

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

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

(d) Fees for filing appeals;

(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 Chapter and are separate from all other fees, system development charges, fines and penalties chargeable by the City.

(2) Non-exclusivity. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the Director may take other action against any industrial user when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any non-compliant industrial user.

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ENVIRONMENT

WATER CONSERVATION

8.101 Declaration of Emergency

A. When the City Water supply has become, or is about to become, depleted to such an extent as to cause a serious water shortage in the City, the Mayor shall have the authority to declare an emergency water shortage and to direct that the provision of Section 8.101, 8.102 and 8.130 of this article of the Code be enforced.

- B. In the event the Mayor is unavailable to declare an emergency, the following shall be the order of succession of authority, based upon availability:
- a. The President of the Council;
 - b. Any other council person;
 - c. The City Manager;
 - d. The Public Works Director

8.102 Notice of Declaration of Emergency

When a declaration of emergency is announced by the Mayor, the City Manager shall make the declaration public in a manner reasonably calculated to provide reasonable notice to the public. This provision shall not be construed as requiring personal delivery or service of notice or notice by mail.

8.108 Standards – Purpose.

This Section is established because during the summer months and in other times of emergency there is or may be insufficient water in the City water supply system to allow irrigation and other uses of water at all times by all parties; and the level of water supplied by the City is at certain times dangerously low; and it is imperative to the public well-being that certain uses of water not essential to health, welfare and safety of the City be restricted from time to time.

8.112 Standards – Application.

The provisions of this Section shall apply to all persons using water, both in and outside the City, regardless of whether any person using water shall have a contract for water services with the City.

8.114 Standards – Wasted Water.

(1) Where water is wastefully or negligently used on a customer's premises, seriously affecting the general service, the City may discontinue the service if such conditions are not corrected after due notice by the City.

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(2) Water shall not be furnished except through a meter to any premises where there are defective or leaking pipes, faucets, closets or other fixtures, or where there are water closets or urinals without self-closing valves and, when such leakage or other defects are discovered and not corrected, the City may discontinue service after giving due notice and until repairs are made. If significant deficiencies are not corrected in a timely manner, as defined by the Public Works Director, the City may introduce enforcement action in conformance with Section 8.150 Violations.

(3) Water must not be allowed to run to waste through any faucet or fixture or kept running any time longer than actually necessary. Sprinkling of lawns, gardens, and parking strips shall be confined to what is actually needed and no running to waste on sidewalks, streets, and gutters shall be permitted. When any such waste is discovered, the water service to the premises may be discontinued.

8.116 Section Not Used

8.118 Standards – General.

(1) In all new construction and in all repair and/or replacement of fixtures or trim, only fixtures or trim not exceeding the following flow rates and/or water usage shall be installed. These rates are based on a pressure at the fixture of 40 to 50 PSI.

Water closets, tank type	–	1.6 gallons per flush.
Water closets, flush-o-meter type	-	1.6 gallons per flush
Urinals, tank type	-	1.0 gallons per flush
Shower heads	-	2.5 GPM
Lavatory, sink faucets	-	2.5 GPM
Metered faucets	-	0.25 gallons per use

(2) Faucets on lavatories located in restrooms intended for the transient public in service stations, park toilet rooms, train stations and similar facilities shall be metering or self-closing.

(3) Any water connective device or appliance requiring a continuous flow of five GPM or more and not previously listed in this section shall be equipped with an approved water recycling system.

8.120 Section Not Used

8.130 Use of Water During Emergency – Prohibited Uses of Water.

(1) When a declaration of emergency is announced and notice has been given in accordance with this Section, the use and withdrawal of water by any person may be limited and include prohibition of the following:

- (a) Sprinkling, watering or irrigating shrubbery, trees, lawns, grass,

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groundcovers, plants, vines, gardens, vegetables, flowers or any other vegetation.

- (b) Washing automobiles, trucks, trailers, trailer houses, railroad cars, or any other type of mobile equipment
- (c) Washing sidewalks, driveways, filling station aprons, porches and other surfaces.
- (d) Washing the outside of dwellings, washing the inside or outside of office buildings.
- (e) Washing and cleaning any business or industrial equipment and machinery.
- (f) Operating any ornamental fountain or other structure making a similar use of water.
- (g) Maintaining swimming and wading pools not employing a filter and re-circulating system.
- (h) Permitting the escape of water through defective plumbing.

8.132 Use of Water During Emergency – Exemptions.

At the discretion of the Mayor, one or more of the uses specified in Section 8.130 may be exempted from the provisions of this section. The exemption shall be made public as provided in Section 8.102 of this Chapter.

8.134 Use of Water During Emergency – Length of Restriction.

The prohibition shall remain in effect until terminated by an announcement by the Mayor in accordance with Sections 8.102.

8.136 Use of Water During Emergency – Declaration Period.

(1) The Mayor shall cause each declaration made by him pursuant to Sections 8.101 to 8.150 to be publicly announced by means of posting notice in three (3) public and conspicuous places in the City, and he may cause such declaration to be further announced in a newspaper of general circulation within the City when feasible. Each announcement shall prescribe the action taken by the Mayor, including the time it became or will become effective, and shall specify the particular use for which the use of water will be prohibited.

(2) Whenever the Mayor shall find the conditions which gave rise to the water prohibition in effect pursuant to Sections 8.101 to 8.150 no longer exist, he may declare the prohibition

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terminated in whole or in part in the manner prescribed by these sections, effectively immediately upon announcement.

(3) The Mayor shall make or cause to be made a record of each time and date when any declaration is announced to the public in accordance with this section, and this includes the notice of termination, both in whole or in part.

8.140 Authority of Officer.

Any police officer of the City, Clackamas County or designated employee of the City may enter the premises of any person for the purpose of shutting off or reducing the flow of water being used contrary to the provisions of Sections 8.101 to 8.150.

8.150 Penalties.

A person convicted of a violation of any provisions of Sections 8.101 to 8.140 shall be punished upon a first conviction thereof for a violation pursuant to Section 1.012, and upon a subsequent conviction thereof for a Class C Misdemeanor pursuant to Section 1.011. Each day such a violation is committed or permitted to continue shall constitute a separate offense and shall be punished as such hereunder.

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PUBLIC SANITARY SEWER USE

8.200 Public Sanitary Sewer Use – General Provision

(1) Purpose. Provides for the required use of public sanitary sewer facilities except as otherwise set forth, for the regulation of the building of and connection to public sanitary sewer facilities and for the uniform regulation of indirect discharge to the Publicly Owned Treatment Works (POTW) through the issuance of permits to certain non-domestic users and through enforcement of general requirements for other users, authorizes monitoring and enforcement activities, establishes administrative review procedures, requires user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(2) Application to Users within and outside of City limits. Provisions of this article shall apply to users within the City limits and to users outside the City limits who, by contract or agreement with the City, are included as users of the municipal wastewater system.

8.202 Use of Public Sanitary Sewer Required. Except as herein provided in this chapter:

(1) It shall be unlawful for any person to place, deposit or permit to be deposited in any manner as described herein on public or private property within the City of Wilsonville, or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.

(2) It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(3) The owner of any house, building, or property used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way, in which there is now located or may in the future be located, a public sanitary sewer of the City, is hereby required, at his expense, to install suitable toilet facilities therein and to connect such facilities directly with the proper public sanitary sewer in accordance with the provisions of this section of the Code within ninety (90) days after the date of official notice to do so, provided that said public sanitary sewer for the residential use is within three hundred (300) feet of the property. Commercial and industrial buildings or structures shall connect no matter what the distance is from the public sanitary sewer to the property to be served.

8.204 Private Sewage Disposal.

(1) Where a public sanitary sewer is not available under the provisions of Section 8.202(4), the building sewer shall be connected to a private sewage disposal system.

(2) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the City.

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(a) The application for such permit shall be made on a form furnished by the City, and shall be supplemented by any plans, specifications and other information as are deemed necessary by the City. The appropriate Type B Construction Permit and plan check fee shall be paid by the City at the time the application is filed.

(b) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City. Inspection of the work in any stage of construction shall be allowed and, in any event, the applicant for the permit shall notify the City when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the City.

(3) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations to the Oregon State Board of Health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than ten thousand (10,000) square feet. No septic tank or cesspool shall be permitted to discharge any natural outlet. If it is determined by the City that a health hazard would be created or that the soil is unable to transfer the sewage runoff through the soil as an effective means of treatment of sewage disposal, the City shall reject the septic or private sewage disposal system, and require, at the owner's expense, construction of an adequately sized sanitary sewer line as approved by the City to connect to an existing public sanitary sewer system. The owner shall construct the sanitary sewer by those requirements of the Public Works Standards of the City of Wilsonville

(4) At such time as a public sanitary sewer becomes available to a property served by a private sewage disposal system, as provided in Section 8.202(4), a direct connection shall be made to the public sanitary sewer in compliance with this Code, and any septic tanks, cesspools and similar disposal facilities shall be removed or opened and filled with sand or gravel in accordance with the Oregon Plumbing Specialty Code.

(5) Where existing buildings are too low to be served by gravity by an available sanitary sewer, the existing septic tank facilities shall be maintained in use and, when so ordered by the City under Section 8.202(4), approved pumping facilities shall be installed to pump the septic tank effluent to the available sanitary sewer system.

(6) The owner shall operate and maintain private sewage disposal or pumping facilities in a sanitary manner at all times, at no expense to the City.

8.205 Conflict

No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by State health officials.

8.206 Buildings Sanitary Sewers and Connections.

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(1) No unauthorized person shall uncover, make any connections to or opening into, use, alter or disturb any sanitary sewer lateral or appurtenance thereof without first obtaining a written permit from the Building Official. In each case, the owner or their agent, shall make application on a special form furnished by the City. The permit applications shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the official.

- (2) There shall be three (3) classes of building sanitary sewer lateral permits:
- (a) Residential, Single, and Multifamily,
 - (b) Commercial; and
 - (c) Industrial Service.

(3) All costs and expenses incident to the installation and connection of the building sanitary sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage to the City that may directly or indirectly be occasioned by the installation of the building sanitary sewer.

(4) A separate and independent building sanitary sewer shall be provided for every building; except, however, when one building stands at the rear of another on an interior lot and no private sanitary sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, then the building sanitary sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(5) Old building sanitary sewers may be used in connection with new buildings only when they are found, on examination or through tests, by the Official, to meet all requirements of this Code Chapter.

(6) The size, slope, alignment, construction material of a building sanitary sewer, and the methods to be used excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Oregon Structural Specialty Code and the Oregon Plumbing Specialty Code and other applicable rules and regulations of the City.

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

(8) No person shall make connection of roof down spouts, areaway drains, or other sources of stormwater runoff to a building sanitary sewer or sewer drain which, in turn, is connected directly or indirectly to the public sanitary sewer.

(9) The connection of the building sanitary sewer into the public sanitary sewer shall conform to the requirements of the the State of Oregon Specialty Plumbing Code in effect at the time, and other applicable rules and regulations of the City. All such connections shall be made gas-tight and water-tight. Any deviation from prescribed procedures and materials must be approved by the Building Official before installation.

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(10) The applicant for the building permits shall notify the Building Official when the building sanitary sewer is ready for inspection. The connection shall be made under the supervision of the Building Official or designated representative. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored at the applicant's or owner's expense in a manner satisfactory to the City, in accordance with adopted Public Works Standards.

(11) All excavations for building sanitary sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard.

(12) The property owner is responsible for the maintenance, repair and replacement of the sanitary sewer lateral from the building to the sanitary sewer main. Sewer lateral maintenance work, which, as used herein, includes pipe clean-out, clog removal, root removal, foaming and any other work or protocol required to ensure proper flow. Repair and replacement work for the sewer lateral shall be done in accordance with the City's Public Works Standards and the City's Right of Way Permit.

8.206 Equipment and/or Vehicle Washing Facilities

(1) Equipment and/or Vehicle wash areas shall be covered

(2) Equipment and/or Vehicle washing facilities shall be equipped with a water recycling system approved by the Public Works Director.

(3) Best available technology shall be utilized for the pretreatment system of any drainage to the sanitary sewer system.

(4) No coin operated equipment and/or vehicle washing facilities shall be installed or used until plans have been submitted to and approved by the City. The plans shall show the method of connections to an approved pretreatment system before discharging into the sanitary sewer system, disposal of rain or surface water and the protection of the potable water system. No rain or surface water shall be conveyed to or through the sanitary sewer system.

8.208 Use of Public Sanitary Sewers.

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

(3) When required by the City, the owner of any property serviced by a building sanitary sewer carrying industrial wastes or large quantities of discharge shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sanitary

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sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

(4) All measurements, tests and analysis of the characteristics of water wastes to which reference is made in this chapter of the Code shall be determined in accordance with the current edition of the "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon testing of suitable samples taken at said control manhole.

In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sanitary sewer to the point at which the building sanitary sewer is connection. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. When customary measurement for BOD characteristics is impractical due to time constraints and the necessity to have immediate measurable results, mg/l of BOD may be based on forty-two percent (42%) of measured C.O.D.

(5) Grease, oil and sand interceptors shall be provided when, in the opinion of the Director or Building Official, they are necessary for the proper handling of wastewater containing excessive amounts of grease, flammable substances, sand, or other harmful substances; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Director or Building Official and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the owner, at his expense.

(6) Separation of Domestic and Industrial Waste Streams. All new and domestic wastewaters from restrooms, showers, drinking fountains, etc., unless specifically included as part of a categorical pretreatment standard, shall be kept separate from all industrial wastewaters until the industrial wastewaters have passed through a required pretreatment system and the industrial user's monitoring facility. When directed to do so by the Director, industrial users must separate existing domestic waste streams.

(7) Hauled Wastewater. Septic tank waste (septage) or hauled septage shall not be accepted into the municipal wastewater system.

(8) 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 municipal wastewater system. Any person found in violation of this requirement shall be subject to the sanctions set out in Section 8.604

8.210 Public Sanitary Sewers – Construction

(1) No person shall construct, extend or connect to any public sanitary sewer without first obtaining a written permit from the City and paying all fees and connection charges and

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furnishing boards as required herein and the Public Works Standards for the City of Wilsonville. The provisions of this section requiring permits shall not be construed to apply to contractors constructing sanitary sewers and appurtenances under contracts awarded and entered into by the City.

(2) The application for a permit for public sanitary sewer construction shall be accompanied by complete plans, profiles and specifications, complying with all applicable sections of the Code, rules and regulations of the City prepared by a registered civil engineer in the State of Oregon showing all details of the proposed work based on an accurate survey of the ground. The application, together with the plans, profiles and specifications shall be examined by the City Engineer or and authorized representative of the City Engineer who shall within twenty (20) days, approve them as filed or require them to be modified as he may deem necessary.

(3) All sewer works plans, specifications and construction procedure shall conform to Public Works Standards for the City of Wilsonville.

(4) Prior to issuance of a permit for public sanitary sewer construction, the applicant shall furnish to the City a performance bond, or cash deposit, in the amount of the total estimated cost of the work. Such performance bond, or cash deposit, shall be conditioned upon the performance of the terms and conditions of the permit and shall guarantee the correction of faulty workmanship and replacement of defective materials for a period of one (1) year from and after the date of acceptance of the work by the City.

(5) Except as provided, the extension of the public sewage facilities to serve any parcel or tract of land shall be done by and at the expense of the owner. The size of all sanitary sewer mains and other sewage facilities shall be as required by the City Engineer to lay sewer pipe larger than that required for his own purposes, to accommodate other users, and may be reimbursed under the provisions of Section 3.116 of the Wilsonville Code for the difference in cost between the size of the line installed and that which would be required for his own use.

(6) Where special conditions exist, in the opinion of the City Engineer, relating to any reimbursement agreement pursuant to the provisions of this section, The City may, either in addition to, or in lieu of any of the provisions of the section, authorize a special reimbursement contract between the City and the person or persons constructing public sewerage facilities. Said special reimbursement agreement shall be made and entered into prior to the issuance of a permit for the work by the City.

(7) Vehicle maintenance installations shall be covered and equipped with oil/water separation and spill protection approved by the Public Works Director for any drainage to the sanitary system.

(8) Vehicle fueling installations shall be covered and equipped with oil/water separators, spill control manholes, , shut off valves and spill protection approved by the Public Works Director for any drainage to the sanitary system.

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(9) Outside storage areas for grease, oil, waste products, recycling, garbage, and other sources of contaminants shall be equipped with oil/water separators, shut off valves and spill protection approved by the Public Works Director for any drainage to the sanitary sewer system. No drainage is allowed to enter the storm sewer system

8.212 Public Sanitary Sewers – Property Damage Prohibited.

No unauthorized person shall with intent to cause substantial inconvenience or with intent to cause damage, break, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the sewage works which is a municipal public utility. Any person violating this provision and as a result thereof damages any part of the sewage works, shall be subject to arrest and prosecution under the laws of the State of Oregon as set forth in OPRS 164.345 through 164.365.

8.214 Powers and Authorities of Inspectors

(1) In addition to the authority set forth in Section 8.312, the Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing, in connection with the provisions and regulations of City sewage collection and treatment system as provided for in this Chapter.

(2) While performing the necessary work on private properties referred to in Section 8.312(1) and 8.214(1) above, the owner of the premises or representative shall notify the City or duly authorized employee of the City to observe all safety rules applicable to the premises established by the owner. The premises shall be maintained in a safe condition and the owner or representative shall have a duty to notify the Director and any duly authorized representative of the City of any unsafe conditions.

(3) The City or duly authorized employee of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a negotiated easement, of for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works which is connected to or lying within an easement. All entry and subsequent work, if any, on said easement of any connection thereto, on the sanitary system shall be done according to those regulations as stipulated in the Code of the City of Wilsonville.

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ENVIRONMENT

INDUSTRIAL WASTEWATER REGULATIONS

8.300– General Provisions.

(1) Purpose and Policy This chapter sets forth uniform requirements for Users of the (POTW) for the City of Wilsonville and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] Section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] Part 403). The objectives of this chapter are:

(a) To prevent the introduction of pollutants into the POTW that will interfere with its operation;

(b) To prevent the introduction of pollutants into the POTW, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the POTW;

(c) To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(d) To promote reuse and recycling of industrial wastewater and sludge from the POTW;

(e) To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements and any other Federal or State laws which the POTW is subject thereto.

(f) This Chapter authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires User reporting.

8.301 Applicability.

This Chapter shall apply to all Users of the POTW, whether inside or outside of the City limits, by contract, permit, or agreement with the City.

8.302 General Sanitary Sewer Use Requirements

(1) Prohibited Discharge Standards

(a) General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which will cause Interference or Pass Through. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State or local pretreatment standards or requirements.

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(b) Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

- 1) Pollutants which create fire or explosion hazard in the POTW, including but not limited to waste streams with a closed cup flash point of less than 140°F (60°C) using the test methods prescribed in 40 CFR 261.21.
- 2) Solid or viscous substances in amounts which will obstruct the flow in the POTW resulting in Interference.
- 3) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through.
- 4) Waste streams having a pH less than 5.5 or more than 10.0, or which may otherwise cause corrosive structural damage to the POTW, City personnel or equipment. In cases where pH is continuously monitored, a violation is deemed to have occurred if the pH falls outside the 5.5 to 10.0 range more than 60 minutes in any one calendar day beginning at midnight and/or more than seven hours 26 minutes in any one calendar month, except that any discharge below 5.0 or above 11.0 is a violation.
- 5) Pollutants, including oxygen- demanding pollutants (BODs, etc) released at a flow rate and/ or pollutant concentration- which, either singly or by interaction with other pollutants, to pass through or interfere with the POTW, any wastewater treatment or sludge process, or constitute a hazard to humans or animals.
- 6) Noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sanitary sewers for maintenance and repair.
- 7) Any substance which may cause the treatment plant effluent or any other residues, sludges, or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the system cause the City to be in noncompliance with sludge use or disposal regulations or permits issued under Section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or other State requirements applicable to the sludge use and disposal practices being used by the City.
- 8) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plants effluent thereby violating the City's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life.

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9) Any 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).

10) Any wastewater containing any radioactive waste or isotopes except as specifically approved by the Director in compliance with applicable State Federal regulations.

11) Any pollutants which result in the presence of toxic gases, vapor or fumes within the system in a quantity that may cause worker health and safety problems.

12) Any trucked or hauled pollutants.

13) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, deionized water, non-contacting cooling water and unpolluted industrial wastewater, unless specifically authorized by the Director.

14) Sludges, screenings, or other residues from the pretreatment of industrial wastes.

15) Medical wastes, except as specifically authorized by the Director in a wastewater discharge permit.

16) Material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfered with the POTW.

17) Material identified as hazardous waste according to 40 CFR Part 261 except as specifically authorized by the Director.

18) Wastewater causing, alone or in conjunction with other sources, the treatment plant effluent to fail toxicity test.

19) Recognizable portions of the human or animal anatomy.

20) Detergents, surface active agents, or other substances which may cause excessive foaming in the POTW.

21) Any wastewater from dry cleaning machines.

22) Wastewater discharging from Dental facilities which contain mercury shall be provided with an approved amalgam separator.

23) Wastes prohibited by this section shall not be processed or stored in such a manner that these wastes could be discharged to the POTW.

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(2) National Categorical Pretreatment Standards

(a) Users must comply with the categorical Pretreatment Standards found in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein. The City shall recognize any variance to the Categorical Standards authorized by the DEQ under 40 CFR 403.13 for fundamentally difference factors from those considered by the EPA when developing the categorical pretreatment standard.

(b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director shall impose an alternate limit using the combined waste stream formula in 40 CFR 403 .6(e) using the combined waste stream formula.

(c) Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City may impose equivalent concentration or mass limits in accordance with Section (1) and (2) of this section.

1) Equivalent Concentration Limits: When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the City may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.

2) The City may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Director.

When converting such limits to concentration limits, the City will use the concentrations listed in the applicable subparts of 40 CFR Parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by Section 8.302(6) of this Chapter. In addition, the City will document how the equivalent limits were derived for any changes from concentration to mass limits, or vice versa, and make this information publicly available.

3) Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section 8.302(2) in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.

(d) Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

(e) Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard 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 notifying the City of such

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anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

(3) State Requirements. Users must comply with State requirements and limitations and discharges to the POTW shall be met by all users which are subject to such limitations in any instance in which they are more stringent than Federal requirements and limitations or those in this ordinance.

(4) Local Limits

(a) Authority to Establish Local Limits: The City is authorized to establish Local Limits pursuant to 40 CFR 403.5(c). The Director may develop BMP's by ordinance or in individual wastewater permits to implement Local Limits and 8.032.

(b) Numerical Local Limits.

1) No nonresidential user shall discharge wastewater containing restricted substances into the POTW in excess of limitations specified in its Wastewater Discharge Permit or adopted, by resolution, by the City. The Director shall publish and revise, from time to time, standards for specific restricted substances. These standards shall be developed in accordance with 40 CFR Section 403.5 and shall implement the objectives of this Chapter. Standards published in accordance with this Section will be deemed Pretreatment Standards for the purposes of Section 307(d) of the Act.

(a) At their discretion, the Director may impose mass limitations in addition to or in place of the concentration based limitations referenced above. The more stringent of either the categorical standards or the specific pollutant limitations for a given pollutant will be specified in the Wastewater Discharge Permit.

(b) Specific effluent limits shall not be developed and enforced without individual notices to persons or groups who have requested such notice and an opportunity to respond.

(5) City's Right to Revision. The City reserves the right to establish, by ordinance or in wastewater permit, more stringent limitations or requirements or discharges to the POTW if deemed necessary to comply with the objectives presented in this Chapter.

(6) Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard, or requirement. The City may impose mass limitations on Users who are using dilution to meet applicable pretreatment standards or regulations, or in other cases when the impositions of mass limitation is appropriate.

(7) Authority to Condition or Deny Industrial Discharge. The City reserves the right to Condition or deny any, or all industrial discharges to the City Sanitary Sewer system.

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8.304 Pretreatment of Wastewater

(1) Pretreatment Facilities

(a) Users shall provide necessary wastewater treatment as necessary to comply with this Chapter and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in Section 8.302, within the time limitations specified by the Director, EPA, or the State, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility.

(b) 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 Chapter.

(2) Additional Pretreatment Measures

(a) Whenever deemed necessary, the Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharge only into specific sanitary sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Chapter.

(b) The City may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.

(c) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter, even though a wastewater discharge permit is not issued.

(3) Accidental Discharge/Slug Discharge Control Plans. The City shall evaluate whether each SIU needs a discharge/Slug discharge control plan or other action to control Slug discharges. The City may require any User to develop, submit for approval and implement such a plan or take such other action that may be necessary to control Slug Discharges, Alternatively, the City may develop such plan for any User.

(a) An accidental discharge/Slug discharge plan shall address, at a minimum, the following:

- 1) Description of discharge practices; including non-routine batch discharges.
- 2) Description of stored chemicals.

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3) Procedures for immediately notifying the Director of any accidental or Slug discharge, as required by this Chapter;

(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.

(5) Failure to comply with Spill/slug control plan conditions shall subject the permittee to enforcement action.

8.306 Wastewater Discharge Permit

(1) Authority to Require Data Disclosure. When requested by the Director, a Users whether operating under a wastewater discharge permit or not; and whether the User meets the criteria of a significant industrial user or not; the User must submit information on the nature and characteristics of all production processes; material storage, and their wastewater generated on site. The user must submit this data within thirty (30) days of the request. The Director is authorized to prepare a form for this purpose and may periodically require industrial users to update this information.

(2) Wastewater Discharge Permit Requirement

(a) SIU Wastewater Discharge Permit Required. No significant industrial users shall discharge to the POTW without first obtaining an individual wastewater permit from the Director, except that a SIU that has filed a timely application pursuant to Section 8.306(3) of the chapter may continue to discharge for the period of time specified therein.

(b) Other Users May Obtain Wastewater Discharge Permit: The Director may require other users, to obtain individual wastewater permits as necessary to carry out the purposes of this chapter.

(c) Violation of Wastewater Discharge Permit. Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this Chapter and subjects the wastewater discharge permittee to the sanctions set out in Sections 8.602 through 8.606 of this Chapter. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

(3) Permitting Existing Connections. Any user required to obtain an individual discharge permit who was discharging wastewater into the POTW prior to the effective date of this Chapter and who wishes to continue such discharges in the future, shall within ninety (90) days after said date, apply to the City for an individual wastewater permit in accordance with Section 8.306(5) below, and shall not cause or allow discharges to the POTW to continue after one hundred

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eighty (180) days of the effective date of this Chapter except in accordance with the permit issues by the Director.

(4) Permitting New Connections. Any SIU proposing to begin or recommence discharging industrial waste into the POTW must obtain a wastewater permit prior to beginning or recommending such discharge. An application for this individual wastewater discharge permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

(5) Wastewater Permit Application Contents. All users required to obtain a individual wastewater discharge permit must submit a permit application. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision. The City may require Users to submit all or some of the following information as part of a permit application:

(a) Identifying Information. The name, mailing address and location (if different from mailing address) of the facility, including the name of the operator and owner, Contact information, descriptions of the activities, facilities, and plant production processes on the premises;

(b) Environmental 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 (including each product produced by type, amount, processes and rate of production) and Standard Industrial Classification (SIC) or North American Industry Classification System (NAIS) of the operations carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes, codes for pretreatment the industry as a whole and any processes for which categorical pretreatment standards have been promulgated;

(d) Types of waste generated and a list of all raw materials and chemicals used at the facility which are or could accidentally or intentionally discharged to the POTW;

(e) Number and type of employees, and hours of operation, and proposed or actual hours of operation;

(f) Type and amount of raw materials processed (average and maximum per day);

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

(h) Time and duration of the discharge;

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

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(j) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams as necessary to use the combined waste stream formula in 40 CFR 403.6(e).

(k) Measurement of Pollutants.

1) The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.

2) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the City, of regulated pollutants in the discharge from each regulated process.

3) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.

4) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 8.310(10) of this Chapter. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the City or the applicable Standards to determine compliance with the Standard.

5) Sampling must be performed in accordance with procedures set out in Section 8.310(11) of this Chapter.

(l) Any other information as may be deemed by the Director to be necessary to evaluate the permit application.

(6) Application Signatories and Certification.

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

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

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

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satisfying the requirements of this Section must be submitted to the City prior to or together with any reports to be signed by an Authorized Representative.

(c) A facility determined to be a Non-Significant Categorical Industrial User by the City must annually submit the signed certification statement in Section 8.310(14).

(7) Wastewater Permit Decisions The Director will evaluate the data furnished by the user and may require additional information. Within sixty (60) days of receipt of a complete permit application, the Director will determine whether or not to issue an individual wastewater discharge permit. The City may deny any application for a wastewater discharge permit.

8.308 Wastewater Permit Issuance

(1) Permit Duration. Permits shall be issued for a specific time period not to exceed five (5) years. A permit may be issued for a period less than five (5) years at the discretion of the Director. Each permit will indicate a specific date on which it will expire.

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

(a) Wastewater Permits must contain:

1) A statement that indicates wastewater discharge permit issuance date, expiration date and effective date.

2) A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from the City and provisions for furnishing the new owner or operator with a copy of the existing permit;

3) Effluent limits, including Best Management Practices, based on applicable standards in Federal, State, and local law;

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

5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State or local laws.

6) Requirement to control Slug Discharges, if determined by the Director to be necessary. Significant Industrial Users are required to notify the Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

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(b) Wastewater Discharge Permits may contain, but need not be limited to, the following:

- 1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- 2) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate or prevent the introduction of pollutants into the treatment works;
- 3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or 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 into the POTW;
- 6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- 7) A statement that compliance with 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 permit;
- 8) Other conditions as deemed appropriate by the Director to ensure compliance with this Chapter; and State and Federal laws, rules, and regulations; the term of the permit.

(3) Permit Issuance Process

(a) Permit Appeals. Any person including the industrial user, may petition the City to reconsider the terms of the permit within ten (10) days of the issuance of the final permit.

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

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

(d) The effectiveness of the permit shall not be stayed pending the appeal.

(e) If the City fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a

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permit, or not modify a permit shall be considered final administrative action for purposes of judicial review.

(f) Aggrieved parties seeking judicial review of administrative permit decisions must do so by complaint with the Circuit Court for Clackamas County, State of Oregon within thirty (30) days of the final administrative decision.

(4) Permit Modifications. The Director may modify the permit for good cause and at any time 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 signification alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of 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 POTW, City personnel, of the receiving waters;

(e) Violation of the terms or conditions of the wastewater discharge permit;

(f) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting;

(g) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 401.13;

(h) To correct typographical or other errors in the permit;

(i) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

(5) Permit Transfer.

(a) Wastewater Discharge Permits may be 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 permit transfer. Failure to provide advance notice of a transfer renders the permit void as of the date of facility transfer, and the new owner will be consider in violation of the City Codes for discharging without a permit. The notice must include a written certification to the new owner which:

1) States that the new owner has no immediate intent to change the facility's operations and processes;

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- 2) Identifies the specific date on which the transfer is to occur;
- 3) Acknowledges full responsibility for complying with the existing permit.

(6) Permit Revocation

(a) Wastewater discharge permits may be revoked for the following reasons:

- 1) Failure to notify the City of significant changes to the wastewater prior to the changed discharge;
- 2) Failure to provide prior notification to the City of changed conditions pursuant to Section 8.310(5);
- 3) Misrepresenting or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- 4) Falsifying self-monitoring reports;
- 5) Tampering with monitoring equipment;
- 6) Refusing to allow the City timely access to the facility premises and records;
- 7) Failure to meet effluent limitations;
- 8) Failure to pay fines;
- 9) Failure to pay sewer charges;
- 10) Failure to meet compliance schedules;
- 11) Failure to complete a wastewater survey or the wastewater discharge permit application;
- 12) Failure to provide advance notice of the transfer of business ownership of a permitted facility;
- 13) Violation of any pretreatment standard or requirement or any terms of the permit or this Chapter;
- 14) Upon cessation of operations.
- 15) Upon issuance of a new wastewater discharge permit to the User.

(7) Permit Renewal. A User with an expiring wastewater discharge permit shall apply for wastewater discharge permit renewal by submitting a complete permit application, in accordance

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with Section 8.306 of this Chapter, a minimum of ninety (90) days prior to the expiration of the User's existing wastewater discharge permit. The existing permit shall remain in effect until the renewed permit is issued, providing the User has submitted the renewal application ninety (90) days prior to the expiration of the User's existing wastewater discharge permit. If the User did not comply with the renewal application submittal criteria, the User will not be authorized to continue discharging past the expiration date of the existing permit without the written authorization of the City.

(8) Regulation of Wastewater Received From Other Jurisdictions.

(a) The City may accept wastewater from individual industrial users located in other jurisdictions, or other municipalities under the following conditions:

1) Municipalities – the municipality must develop and implement a sanitary sewer use ordinance that meets, or exceeds, the Wilsonville Industrial Wastewater Regulations, Chapter 8. The municipality must submit their request in writing and the request for Extra-Jurisdictional wastewater treatment a list of industrial users within their jurisdiction, the nature and volume of the industrial discharges, the combined discharge from the municipality that will be treated by the Wilsonville wastewater treatment plant. Municipalities will not be issued wastewater discharge permits. Municipalities must enter into an Extra-Jurisdictional Agreement between the City of Wilsonville and the requesting municipality.

2) Extra-Jurisdictional Industrial Users – the industrial user must submit a Wastewater Permit Application to the City. The Industrial User must agree to comply with the terms and conditions of the permit, including right-of-entry for purposes of inspection, and sampling, enforcement actions specified in the permit.

(b) An inter-jurisdictional agreement, as required by paragraph A, above, shall contain the following conditions:

1) A requirement for the contributing municipality to adopt a sanitary sewer use ordinance which is at least as stringent as this Chapter and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in Section 8.302 of this Chapter. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the Wilsonville ordinance or Local Limits;

2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;

3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the City; and which of these activities will be conducted jointly by the contributing municipality and the City;

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- 4) A requirement for the contributing municipality to provide the City with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- 5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- 6) Requirements for monitoring the contributing municipality's discharge;
- 7) A provision ensuring the City access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the City; and
- 8) A provision specifying remedies available for breach of the terms of the inter-jurisdictional agreement.
- 9) Where the contributing municipality has primary responsibility for permitting, compliance monitoring, or enforcement, the inter-jurisdictional agreement should specify that Wilsonville shall have the right to take action to enforce the terms of the contributing municipality's ordinance or to impose and enforce Pretreatment Standards and Requirements directly against dischargers in the event the contributing jurisdiction is unable or unwilling to take such action.

8.310 Reporting Requirements

(1) Baseline Monitoring Reports.

(a) Users that become subject to new or revised categorical Pretreatment Standards are required to comply with the following reporting requirements even if they have been designated a Non-Significant Categorical Industrial Users

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

(c) Users described above shall submit the information set forth below:

- 1) All information required in Section 8.306(2) through Section 8.306(7)
- 2) Measurement of Pollutant.

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The City may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

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

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

(c) Sampling and analysis shall be performed in accordance with Section 8.310(10);

(d) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW

(e) Compliance Certification. A statement, reviewed by the User's authorized representative and certified to be a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operations and maintenance (O&M) and/or additional pretreatment is required in order to meet pretreatment standards and requirements.

(f) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest possible schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 8.310(2) of this Chapter; and

(g) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 8.310(3) and signed by an Authorized Representative.

The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

(2) Compliance Schedule Progress Reports. The following conditions shall apply to the compliance schedule required by Section 8.310(1) of this Chapter:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of

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additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The User shall submit a progress report to the City no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

(d) In no event shall more than nine (9) months elapse between such progress reports to the City.

(3) Reports on Compliance with Categorical Pretreatment Standard Deadline

a) Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to the City a report containing the information described in Section 8.306(5) of this Chapter. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 8.302(2), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 8.310(14) of this Chapter. All sampling will be done in conformance with Section 8.310.

(4) Periodic Compliance Reports.

All SIUs are required to submit periodic compliance reports even if they have been designated a Non-Significant Categorical Industrial User under the provisions of Section 8.310(4).

(a) Except as specified in Section 8.310(4), all Significant Industrial Users must, at a frequency determined by the City submit no less than twice per year (June and December, or on dates specified, reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the City or the Pretreatment Standard necessary to determine the compliance status of the User.

(b) All periodic compliance reports must be signed and certified in accordance with Section 8.310(14) of this Chapter.

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

(d) If a User subject to the reporting requirement in this Section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the City, using the procedures prescribed in Section 8.310(11) of this Chapter, the results of this monitoring shall be included in the report.

(5) Report of Changed Conditions. Each user must notify the Director of any significant changes to the User's operations or system which might alter the nature, quality, or volume at least thirty (30) days before the change.

(a) The Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater permit application under Section 8.306(5), if necessary.

(b) The Director may issue a wastewater permit under Section 8.308(7) or modify an existing wastewater discharge permit under Section 8.308(4) in response to changed conditions or anticipated changed conditions.

(6) Reports of Potential Problems.

(a) In the case of any discharge, including but not limited to accidental discharge non-routine, episodic nature, a non-customary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW the user shall immediately telephone and notify the City of the incident. This notification shall include the location and discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following an accidental discharge, the user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this Chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of an accidental discharge as described above. Employers shall ensure that all employees who may cause or suffer such a discharge to occur are advised of all the emergency notification procedures.

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(d) Significant Industrial Users are required to notify the City immediately of any changes at its facility affecting the potential for a Slug Discharge.

(7) Reports from Un-Permitted Users. All users not required to obtain an individual wastewater permit shall provide appropriate reports to the City as the Director may require.

(8) Notice of Violation/Repeat Sampling and Reporting

(a) If sampling performed by a User indicates a violation, the User must notify the City within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City within thirty (30) days after becoming aware of the violation.

(9) Notification of the Discharge of Hazardous Waste

(a) Any User who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division City, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than one-hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 8.310(5) of this Chapter. The notification requirement in this Section does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards under the self-monitoring requirements of Sections 8.310(1), 8.310(3), and 8.310(4) of this Chapter.

(b) Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the City, the EPA Regional Waste Management Waste Division City, and State

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hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Chapter, a permit issued hereunder, or any applicable Federal or State law.

(10) Analytical Requirements

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

(11) Sample Collection.

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

(b) The City shall establish the frequency of monitoring necessary to assess and assure compliance by the User with applicable Pretreatment Standards and Requirements.

(c) Except as indicated in Section (d) and (e) below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the City. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows:

1) For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field;

2) for volatile organics and oil and grease, the samples may be composited in the laboratory.

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3) Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

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

(e) For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 8.310(1) and 8.310(3), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the City may authorize a lower minimum. For the reports required by paragraphs Section 8.310(4), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

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

(13) Recordkeeping Users subject to the reporting requirements of this Chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Section 8.302(4). 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 the City, or where the User has been specifically notified of a longer retention period by the City.

(14) Certification Statements

(a) Certification of Permit Applications, User Reports and Initial Monitoring Waiver—The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 8.306(6); Users submitting baseline monitoring reports under Section 8.310(1).; Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 8.310(3); Users submitting periodic compliance reports required by Section 8.310(4), and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 8.310(4). The following certification statement must be signed by an Authorized Representative:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or

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persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

(b) Annual Certification for Non-Significant Categorical Industrial Users - A facility determined to be a Non-Significant Categorical Industrial User by the City must annually submit the following certification statement signed in accordance with the signatory requirements in Section 8.310(14). This certification must accompany an alternative report required by the City:

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

- 1) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Section 8.006 (b) 1-3.
- 2) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and
- 3) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.
- 4) The Facility never discharged concentrated untreated wastewater.

8.312 Compliance Monitoring

(1) Right of Entry; Inspection and Sampling.

(a) The City, an authorized representative of the US EPA and/or authorized representative of the Oregon DEQ shall have the right to enter the premises of any user to ascertain whether the purpose of this Chapter is being met and all requirements are being complied with. Users shall allow authorized personnel 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.

(b) Where a user has security measures in force that require proper identification and clearance before entry into their premises, the industrial user shall make necessary arrangements with its security guards, so that upon presentation of suitable identification, personnel from the City, State and US EPA will be permitted to enter, without delay, for the purposes of performing specific responsibilities.

(c) The City, State, and US EPA shall have the right to set up or require installation of, on the industrial user’s property, such devices as are necessary to conduct sampling, and/or metering of the user’s operations.

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(d) The City may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy. The location of the monitoring facilities shall provide ample room in or near the monitored facility to allow accurate sampling and preparation of samples and analysis and whether constructed on public or private property, the monitoring facilities should be provided in accordance with the City's requirements and all applicable local construction standards and specifications, and such facilities shall be constructed and maintained in such manner so as to enable the City to perform independent monitoring activities

(e) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the user.

(f) Unreasonable delays in allowing the City access to the user's premises shall be a violation of this Chapter.

(2) Search Warrants. If the Director has been refused access to a building, structure or property or any part thereof, and if the Director has probable cause to believe that there may be a violation of this Chapter, or that there is a need to inspect as part of a routine inspection program of the City designed to protect the overall public health, safety and welfare of the community, then upon application by the City Attorney, the Municipal Court Judge of the City may issue a search and/or seizure warrant describing herein the specific location subject to the warrant. The warrant shall specify what, if anything, may be search 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.

8.314 Confidential Information

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

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8.316 Publication of Users in Significant Noncompliance

(1) The City shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users or any other Industrial User that violates paragraphs (c), (d) or (h) of this Section and shall mean:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 8.302;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 8.302 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH.

(c) Any other violation of a Pretreatment Standard or Requirement as defined by Section 8.302 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the City determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the City exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance; or

(h) Any other violation(s), which may include a violation of Best Management Practices, which the City determines will adversely affect the operation or implementation of the local pretreatment program.

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8.318 Affirmative Defense

(1) Upset

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

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (c), below, are met.

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

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

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

3) The User has submitted the following information to the City within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:

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

b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

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

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

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

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(2) Prohibited Discharge Standards. User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibition and the specific prohibitions in Section 8.302 of this chapter if it can prove it did not know or have reason to know that its discharge alone or in conjunction with other discharges, would cause pass through or interference and that either:

(a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to and during the pass through or interference; or

(b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with the NPDES permit, and in the case of interference, in compliance with applicable sludge use or disposal requirements.

(3) Bypass.

(a) For the purposes of this Section

1) Bypass means the intentional diversion of waste streams from any portion of a User's treatment facility.

2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A User may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of (c) and (d).

(c) Bypass Notification

1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, if possible at least 10 days before the date of the bypass.

2) An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Director within twenty-four (24) hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass. The Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

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(d) Bypass is prohibited, and the Director may take enforcement action against an Industrial User for a bypass, unless;

1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.

2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintaining during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

3) The Industrial User submitted notices as required under paragraph (c) of this section.

4) The Director may approve an anticipated bypass after considering its adverse affects, if the Director determines that it will meet paragraph (d) 1) of this Section.

8.320 Pretreatment Charges and Fees

(1) The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program, which may include:

(a) Fees for wastewater discharge permit applications including the cost of processing such applications;

(b) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge;

(c) Fees for reviewing monitoring reports and certification statements submitted by Users;

(d) Fees for reviewing and responding to slug discharge procedures and construction;

(e) Fees for filing appeals;

(f) Fees to recover administrative and legal costs (not included in Section 8.604, Section 8.606 and 8.316) associated with the enforcement activity taken by the City to address IU noncompliance; and

(g) Other fees as the City may deem necessary to carry out the requirements contained herein.

(2) These fees relate solely to the matters covered by this Chapter and are separate from all other fees, fines, and penalties chargeable by the City.

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SOLID WASTE DISPOSAL

8.400 Garbage – General Regulations.

(1) The regulation of the disposal and hauling of garbage in the City under the provisions of this Code shall be under the supervision of the City Council or an agent or employee of the City, duly assigned by the City Council and the powers and duties of said Council or as designated shall include, though not exclusively, authority to conduct periodic inspections to insure full compliance with terms and provisions of these sections and to arbitrate or provide for arbitration of any and all disputes arising between the Garbage Contractor or Garbage Franchisee of the City and the citizens of the City.

(2) It shall be unlawful for any person in possession, charge or in control of any dwelling, apartment, trailer camp, restaurant, camp, place of business or manufacturing establishment where garbage is created or accumulated, to fail at all times to keep portable cans or containers of standard type and construction and to deposit said garbage therein, provided however, that stiff paper products and wooden or metal waste matter may remain outside of cans or containers, if neatly and orderly stored. Said cans or containers for garbage shall be strong, watertight, rodent proof, insect proof and be of capacity approved by the City and shall have tight fitting lids. Said cans or containers shall be kept tightly closed at all times except when being emptied or filled and shall be kept and maintained at a place or places reasonably accessible to garbage haulers at first floor or ground level. Recyclable materials containers may be open if the materials are not likely to attract animals.

(3) It shall be unlawful to burn, dump, collect, remove or in any other manner accumulate or dispose of garbage upon any street, alley, public place or private property, within the City, otherwise than as herein provided. Waste paper, rubbish and debris, brush, grass, wood and cuttings from trees, but excepting paper, cardboard or wood containers in commercial quantities, may be burned in furnaces, outside fireplaces or incinerators on private property in keeping with State and County laws, or upon special permit from the fire chief of the City, they may be burned in open fires. It shall always be unlawful to burn, within City limits, any wet garbage or other substance which creates foul or obnoxious orders. Any unauthorized accumulation of garbage on any premises is hereby declared to be a nuisance and is prohibited. Failure to remove any existing accumulation of garbage within thirty (30) days after the effective date of this Code shall be deemed in violation of this Section.

(4) It shall be unlawful for any person to haul garbage upon the streets and public thoroughfares of the City, except as otherwise provided herein.

(5) All persons in the City are hereby required to dispose of all perishable garbage before the same shall become offensive and to dispose of all non-perishable garbage promptly and not permit the same to accumulate on or about the premises and to dispose of the same by burning, burying or such manner as shall not create a nuisance and as permitted by these sections.

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(6) Any person may transport garbage produced by himself or itself upon the streets of the City provided that such garbage must be hauled in such manner as to prevent leakage or litter upon the streets and must be deposited upon designated dumping grounds or disposed of in a manner not inconsistent with these sections.

(7) Except as provided herein, it shall be unlawful for any person, firm or corporation, other than a person, firm or corporation under contract with the City as provided in Section 8.402 of this Code to gather and haul garbage over the streets of the City.

8.402 Garbage – Contract Garbage Hauler

(1) The Mayor of the City is hereby authorized and directed to enter into a contract with a person, firm or corporation for a period of five (5) successive years from and after the effective date of this Code granting to the said person, firm or corporation the exclusive right to collect, convey or dispose of all garbage as herein defined and which accumulates in the City. The terms and conditions of such contract to be first approved by the City Council. Upon expiration of said contract by the lapse of time or otherwise the Mayor of the City is hereby authorized to enter into a renewal contract or other contracts with other persons, firms, or corporations as may be required for the collection, conveyance, removal and disposal of garbage within the City.

(2) For the right to collect and haul garbage over the streets of the City, the Contractor shall pay to the City as a license and inspection fee, annually, and in advance, an amount equal to three percent (3%) of the gross revenue collected by the Contractor for garbage collections services; and fee to be based upon the prior year's gross revenue.

(3) The rates and compensation for the service rendered by the contract garbage hauler shall be reasonable and uniform and shall not be in excess of a schedule of charges and compensation to be fixed by the contract. Provided that such rates and charges may be changed from time to time after negotiations with the Contractor.

8.404 Garbage – Violation.

Any person violating any of these terms of this Chapter shall upon a first conviction thereof, be punished for a violation pursuant to Section 1.012 of the Wilsonville Code and upon a subsequent conviction thereof, be punished for a Class C Misdemeanor pursuant to Section 1.011 of the Wilsonville Code. In addition, upon a conviction, a person shall be liable for the costs of prosecution.

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STORMWATER

8.500 General Provisions

- (1) Purpose. Provides for the building of and connection to public stormwater facilities and for the uniform regulation of discharges to the public stormwater system through the issuance of permits and through enforcement of general requirements for other users, authorizes monitoring and enforcement activities, establishes administrative review procedures, requires user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.
- (2) Application to Users within and outside of City limits. Provisions of this article shall apply to users within the City limits and to users outside the City limits who, by contract or agreement with the City, are included as users of the public stormwater system.

8.502 Stormwater System Construction

- (1) No unauthorized person shall uncover, make any connections to or opening into the public stormwater system, use, alter or disturb any storm sewer lateral or appurtenance thereof without first obtaining a permit from the City. In each case, the owner or their agent, shall make application on a special form furnished by the City. The permit applications shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the City's authorized stormwater representative.
- (2) All costs and expenses incidental to the installation and connection of stormwater facilities shall be borne by the owner. The owner shall indemnify the City from any loss or damage to the City that may directly or indirectly be occasioned by the installation of stormwater facilities or connections to the public stormwater system.
- (3) The size, slope, alignment, construction materials of stormwater facilities, and the methods to be used excavating, placing of the pipe or other facilities, jointing, testing and backfilling the trench, shall all conform to the requirements of the State of Oregon Plumbing Specialty Code and other applicable rules and regulations of the City, including the City's Public Works Standards.
- (4) The connection of the stormwater facilities to the public stormwater system shall conform to the requirements of the State of Oregon Specialty Plumbing Code in effect at the time, and other applicable rules and regulations of the City, including the City's Public Works Standards. Any deviation from prescribed procedures and materials must be approved by the City's authorized stormwater representative before installation.

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- (5) The applicant shall notify the City's authorized stormwater representative when the stormwater facilities are ready for inspection. The connection shall be made under the supervision of the City's authorized stormwater representative. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored at the applicant's or owner's expense in a manner satisfactory to the City, in accordance with the City's requirements.
- (6) All excavations for stormwater facility installation shall be adequately guarded with barricades and lights so as to protect the public from hazard.

8.504 Use of Public Stormwater System

- (1) No unauthorized person shall uncover, make any connections with or openings into, use, alter, or disturb, any public stormwater system or appurtenance thereof without first obtaining written permission from the City.
- (2) Stormwater shall be discharged to storm sewers and natural outlets under the authority and regulations of the NPDES Municipal Stormwater Permit Program, administered by the Oregon Department of Environmental Quality.
- (3) 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 public stormwater system.
- (4) It shall be unlawful to discharge in or into any natural outlet or stormwater sewer inlet (catch basin, grate, roof downspout, etc.) within the City of Wilsonville, or in any area under the jurisdiction of said City, any sewage or other polluted water.
- (5) Stormwater shall be protected from soap, wax, or other pollution runoff from vehicle wash facility entrance and exits.

8.506 Public Stormwater System – Property Damage Prohibited

- (1) No unauthorized person shall with intent to cause substantial inconvenience or with intent to cause damage, break, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the public stormwater system. Any person violating this provision and as a result thereof damages any part of the public stormwater system, shall be subject to arrest and prosecution under the laws of the State of Oregon as set forth in ORS 164.345 through 164.365.

8.508 Right of Entry

- (1) Where it is necessary to perform inspections, measurements, sampling and/or testing, to enforce the provisions of this code, or where the City's authorized stormwater representative has reasonable cause to believe that there exists upon the premises a condition which is contrary to or in violation of this code which

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makes the premises unsafe, dangerous or hazardous, the City's authorized stormwater representative is authorized to enter the premises at reasonable times to inspect or to perform the duties imposed by this code. Provided, however, that if such premises is occupied that credentials be presented to the occupant and entry requested. If such premises are unoccupied, the City's authorized stormwater representative shall first make a reasonable effort to locate the owner or other person having charge or control of the premises and request entry. If entry is refused, the City's authorized stormwater representative shall have recourse to the remedies provided by law to secure entry.

- (2) The premises shall be maintained in a safe condition by the owner or a person having charge or control of the premises and upon contact by the City's authorized stormwater representative the owner or a person having charge or control of the premises shall have a duty to notify City's authorized stormwater representative of any safety rules or unsafe conditions applicable to the premises.
- (3) Not with standing, Section 8.508(1) above, the City's authorized stormwater representative shall be permitted to enter all private properties through which the City holds an easement, according to the terms of the easement.. Any storm water facility work within said easement shall be done according to the regulation provided in this Code and/or the Public Works Standards.

8.510 Discharge of Pollutants

- (1) The commencement, conduct, or continuance of any non-stormwater discharge to the public stormwater system is prohibited and is a violation of this ordinance, except as described below.
- (2) The prohibition shall not apply to any non-stormwater discharge permitted or approved under an Industrial or Municipal NPDES Stormwater permit, waiver, or discharge order issued to the discharger and administered by the DEQ, provided that the discharger is in full compliance with all requirements of the permit, waiver, or discharge order and other applicable laws or regulations and provided that written approval has been granted by the City for any discharge to the municipal separate storm wastewater system (MS4).
 - (a) Except as provided in subsection (3), the prohibition shall not apply to the following non-stormwater discharges to the public stormwater system: water line flushing, landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration (as defined in 40 CFR 35.2005(20)) to the MS4, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, and flows from fire fighting.

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- (b) “Street wash water” is defined for purposes of this section to be water that originates from publicly-financed street cleaning activities consistent with the City’s NPDES municipal stormwater permit.
 - (c) Discharge of flows to the public or private stormwater system from private washing of sidewalks, streets and parking lots are discouraged to the maximum extent practicable.
- (3) The City may require best management practices to reduce pollutants, or may prohibit a specific discharger from engaging in a specific activity identified in subsection (2) if at any time the City determines that the discharge is, was, or will be a significant source of pollution.

8.512 Discharge in Violation of Permit

Any discharge that would result in or contribute to a violation of an existing or future Municipal NPDES Stormwater permit and any amendments, revisions, or reissuance thereof, either separately considered or when combined with other discharges, is a violation of this chapter and is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, and such persons shall defend, indemnify, and hold harmless the City in any administrative or judicial enforcement action against the permit holder relating to such discharge.

8.514 Waste Disposal Prohibitions

- (1) No person may cause or contribute to pollution, including but not limited to any refuse, rubbish, garbage, litter, yard debris, landscape materials, compost, topsoil, bark, gravel, sand, dirt, sod, sediment or sediment-laden runoff from construction or landscaping activities, hazardous materials, or other discarded or abandoned objects, articles, and accumulations in or to the public stormwater system.
- (2) Runoff from commercial or industrial operations or businesses that wash or detail vehicles, engines, transmissions, equipment, interior floors, or parking lots, shall not discharge directly to a private or public stormwater system except as allowed under Section 8.510 of this code; this includes but is not limited to outdoor commercial, industrial or business activities that create airborne particulate matter, process by-products or wastes, hazardous materials or fluids from stored vehicles, where runoff from these activities discharges directly or indirectly to a private or public stormwater system.

8.516 General Discharge Prohibitions

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- (1) It is unlawful to discharge or cause to be discharged directly or indirectly into the public stormwater system any of the following:
 - (a) Any discharge having a visible sheen, or containing floating solids or discoloration (including but not limited to dyes and inks);
 - (b) Any discharge having a pH of less than 6.5 or greater than 8.5 or that contains toxic chemicals in toxic concentrations;
 - (c) Any discharge which causes or may cause damage, interference, nuisance or hazard to the public stormwater system or the City personnel; and
 - (d) Any discharge containing human sanitary waste or animal feces.

8.518 Compliance with Industrial NPDES Stormwater Permits

Any industrial discharger, discharger associated with construction activity, or other discharger subject to any NPDES Stormwater permit issued by the Oregon DEQ, from which pollutants may enter the public or private stormwater system, shall comply with all provisions of such permits, including notification to and cooperation with local entities as required by State and Federal regulations. Proof of compliance with said permits may be required in a form acceptable to the City prior to issuance of any grading, building, occupancy permits or business license.

8.520 Compliance with Local, State, and Federal Regulations

All users of the public stormwater system and any person or entity whose actions may affect the system shall comply with all applicable local, state and federal laws. Compliance with the requirements of this chapter shall in no way substitute for or eliminate the necessity for compliance with applicable local, state and federal, state laws.

8.522 Conflicts with Existing and Future Regulatory Requirements of Other Agencies

Any provisions or limitation of this chapter and any rules adopted pursuant hereto are superseded and supplemented by any applicable local, state and federal requirements existing or adopted subsequent hereto, which are more stringent than the provisions and limitations contained herein.

8.524 Accidental Spill Prevention and Control

Accidental spills and releases by dischargers who are not required to obtain a NPDES Stormwater permit but who handle, store or use hazardous or toxic substances or discharges prohibited under Section 8.512 and there is a reportable quantity as defined in OAR 340-142-0050, on their sites shall prepare and submit to the City an Accidental Spill Prevention and Control Plan within 60 days of notification by the City. If other laws or regulations require an Accidental Spill Prevention and Control Plan, a plan that meets the requirement of those other laws and regulations will satisfy the requirement of this Section.

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8.526 Notification of Spills

- (1) As soon as any person in charge of a facility or responsible for emergency response for a facility becomes aware of any suspected, confirmed, or unconfirmed release of material, pollutants, or waste creating a risk of discharge to the public stormwater system, such persons shall:
 - (a) Begin containment procedures;
 - (b) Notify proper emergency personnel in case of an emergency;
 - (c) Notify appropriate city and/or state officials regarding the nature of the spill; and
 - (d) Follow-up with the city regarding compliance and modified practices to minimize future spills, as appropriate.
- (2) The notification requirements of this section are in addition to any other notification requirements set forth in local state, or Federal regulations and laws. The notification requirements do not relieve the person of necessary remediation.

8.528 Requirement to Eliminate Illicit Connections

- (1) The City's authorized stormwater representative may require by written notice that a person responsible for an illicit connection to the public stormwater system comply with the requirements of this chapter to eliminate the illicit connection or secure approval for the connection by a specified date.
- (2) If, subsequent to eliminating a connection found to be in violation of this chapter, the responsible person can demonstrate that an illicit discharge will no longer occur, that person may request approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.

8.530 Requirement to Remediate

Whenever the City finds that a discharge of pollutants is taking place or has taken place which will result in or has resulted in pollution of stormwater or the public stormwater system, the City's authorized stormwater representative may require by written notice to the responsible person that the pollution be remediated and the affected property restored, to the requirements of this Chapter.

8.532 Requirement to Monitor and Analyze

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Whenever the City's authorized stormwater representative determines that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution or illicit discharges to the public stormwater system, the City's authorized stormwater representative may, by written notice, order that such person undertake such monitoring activities and/or analyses and furnish such reports as the City's authorized stormwater representative may deem necessary to demonstrate compliance with this chapter. The written notice shall be served either in person or by certified or registered mail, return receipt requested, and shall set forth the basis for such order and shall particularly describe the monitoring activities and/or analyses and reports required including but not limited to, that which may be undertaken by a third party independent monitor, sampler and/or tester. The recipient of such order shall undertake and provide the monitoring, analyses and reports within the time frames set forth in the order.

8.534 Erosion Prevention and Sediment Control

- (1) Any person performing construction work in the city shall comply with the provisions of this chapter and shall provide and maintain erosion and sediment controls that prevent discharges of pollutants to the public stormwater system. Any person performing construction work in the city shall comply with the City's Public Works Standards which establishes standards and guidelines for implementing Best Management Practices designed to provide erosion prevention and sediment control from construction sites.
- (2) The City's authorized stormwater representative may make periodic inspections to ensure compliance with the requirements of the Public Works Standards.

8.536 Stormwater – Violation

Any person violating any of the terms of this Section shall upon a first conviction thereof, be subject to the violation fine provisions pursuant to City Code Chapter 1.012 of the Wilsonville Code and upon a subsequent conviction thereof, shall be subject to the Class C Misdemeanor fine provisions pursuant to City Code Chapter 1.011. In addition, upon a conviction, a person shall be liable for the costs of prosecution.

ENFORCEMENT

8.602 Administrative Enforcement Remedies

(1) Enforcement. In addition to the imposition of civil penalties, the City shall have the right to enforce this Chapter by injunction, or other relief, and seek fines, penalties and damages in Federal or State courts. Any discharge that fails to comply with the requirements of these rules and regulations or provisions of its industrial wastewater discharge permit may be subject to enforcement actions as prescribed in Section 8.602(2) through Section 8.602(9) below.

- (a) The City is hereby authorized to adopt, by ordinance or resolution, an Enforcement Response Plan, with procedures and schedules of fines, to implement the provisions of this Section.

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(b) The type of enforcement action shall be based, but not limited by the duration and the severity of the violation; impacts on water quality, sludge disposal, interference, work health and safety; violation of the City's NPDES discharge permit. Enforcement shall, generally, be escalated in nature.

(2) Notification of Violation. Whenever the City finds that any User has violated or is violating this Chapter, a wastewater permit or order issued hereunder, or any other pretreatment requirement, the Director or his agent may serve upon said user a written Notice of Violation. Within ten (10) days of 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 to the Director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of this Notice of Violation. Nothing in this section shall limit the authority of the City to take emergency action without first issuing a Notice of Violation.

(3) Consent Orders. The City may enter into Consent Orders, Assurance of Compliance, or other similar documents establishing an agreement with the any User responsible for the noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period also specified by the document. Such documents shall have the same force and effect as administrative orders issued pursuant to Section 8.602(4) or 8.602(5) below and shall be judicially enforceable.

(4) Show Cause Hearing. The City may order any industrial user which causes or contributes to violation(s) of this Chapter, wastewater permits or orders issued hereunder, or any other pretreatment requirement to appear before the City and show cause why a proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the User. Whether or not the User appears as notified, immediate enforcement action may be pursued following the hearing date. This action shall not be a bar against, or establish a prerequisite for, taking any other action against the User.

(5) Compliance Orders. When the City 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 City may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any

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violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

(6) Cease and Desist Orders. When the City finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the City may issue an order to the User directing it to cease and desist all such violations and directing the User to:

(a) Immediately comply with all requirements:

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatening violation, including halting operations and/or terminating the discharge. This action shall not be a bar against, or establish a prerequisite for, taking any other action against the User.

(7) Administrative Fines.

(a) When the City 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 City may fine such User in an amount not to exceed five thousand dollars (\$5,000). Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines may 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 City shall have such other collection remedies as may be available for other service charges and fees. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of twenty percent (20%) of the unpaid balance, and interest shall accrue thereafter at a rate of seven percent (7%) per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.

(c) Users desiring to dispute such fines must file a written request for the City to reconsider the fine along with full payment of the fine amount within ten (10) days of being notified of the fine. Where a request has merit, the City may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The City may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

(8) Emergency Suspensions. The City may immediately suspend an user's discharge and the industrial user's wastewater discharge permit, after informal notice to the industrial user, whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent endangerment to the health

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and welfare of persons. The City may also immediately suspend an user's discharge and the industrial user's wastewater discharge permit, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(a) Any User notified of a suspension of its discharge activity or wastewater permit shall immediately stop or eliminate its contribution. In the event of an industrial user's failure to immediately comply voluntarily with the suspension order, the City 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 City may 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 set forth in Section 8.602(9) are initiated against the user. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this Section.

(b) An user which is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a 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 Section 8.602(4) or 8.602(9).

(9) Termination of Permit. Any User who violates the following conditions is subject to discharge termination:

- (a) Violation of 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;
- (e) Violation of the pretreatment standards in Section 8.302 of this Chapter.

Such Users will be notified of proposed termination of its discharge and be offered an opportunity to show cause under Section 8.602(4) above why the proposed action should not be taken.

Exercise of this option by the City shall not be a bar to, or establish a prerequisite for, taking any other action against the User.

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(10) Appeals. Any enforcement action by the City may be appealed to the City Council by filing a petition for reconsideration. The petition must show cause why an enforcement action should not be taken.

(a) Enforcement action appeals must be filed with the City Recorder within ten (10) working days of receipt of the enforcement action.

(b) The petition for appeal shall indicate the nature of the interpretation that is being appealed. The matter at issue will be a determination of the appropriateness of the interpretation of the enforcement response and the requirements of the pretreatment program.

(c) Upon appeal, the City Council shall first determine whether the appeal shall be heard on the record only, or upon an evidentiary hearing *de novo*. Where an appellant has been afforded an opportunity of an evidentiary hearing by the City, then appeal shall be limited to a review of the record and a hearing for receipt of arguments regarding the record. Where an appellant has not been afforded an evidentiary hearing, or upon finding that under prejudice should otherwise result, the City Council shall conduct an evidentiary hearing *de novo*.

(d) Unless otherwise provided by the City Council, an evidentiary hearing *de novo* on appeal shall require a record be kept of the following:

- 1) The record, if any, of the matter before the City.
- 2) A factual report prepared and presented by the City.
- 3) All exhibits, materials and memoranda submitted by any party and received or considered in reaching the decision under review.
- 4) A record of testimonial evidence, if any.

(e) Upon review, the City Council may by order affirm, reverse or modify in whole or part a determination or requirement of the decision that is under review. When the Council modifies or renders a decision that reverses a decision regarding an enforcement action, the Council, in its order, shall set forth its finding and state its reasons for taking the action.

8.604 Judicial Enforcement Remedies

(1) Injunctive Relief. Whenever the City finds that a user has violated or continues to violate the provisions of this Chapter, permits or orders issued hereunder, or any other pretreatment requirements, the City through the City's attorney, may petition the Circuit Court of Clackamas County for issuance of a temporary or permanent injunction, as may be appropriate, which restrains or compels the specific performance of the wastewater discharge

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permit, order, or other requirement imposed by this Chapter 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 the User.

(2) Civil Penalties. A User which has violated or continues to violate the provisions of this Chapter, a wastewater permit, or any order issued hereunder, or any other Pretreatment Standard or Requirement may be liable to the City for a maximum civil penalty of five thousand dollars (\$5,000) per violation per day. In the case of a monthly or other long term average discharge limit, penalties shall accrue for each business day during the period of this violation.

(a) The City may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

(b) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm, caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factors as the justice requires.

(c) Filing a suit for civil penalties shall not be a bar to, or a prerequisite for, taking any other action against the user.

(3) Criminal Prosecution.

(b) Any User who willfully or negligently violates any provisions of this Chapter, any orders or permits issue hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$5,000 per violation per day or imprisonment for not more than one year or both.

(b) Any User who knowingly makes any false statement, representations, or certifications in any application, record, report, plan or other documentation filed or required to be maintained pursuant to this Chapter, or wastewater discharge permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Chapter shall, upon conviction, be punished by a fine of not more than \$5,000 per violation per day or imprisonment for not more than one year or both.

(c) Any User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$5,000 per violation, per day, or be subject to imprisonment for not more than one year, or both. This penalty shall be in

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addition to any other cause of action for personal injury or property damage available under State law.

(d) In the event of a second conviction, the user shall be punished by a fine not to exceed \$6,000 per violation per day or imprisonment for not more than three (3) years or both.

(4) Remedies Nonexclusive

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

8.606 Supplemental Enforcement Action

(1) Performance Bonds. The City may decline to reissue a permit to any User who has failed to comply with the provisions of this Chapter, a previous wastewater discharge permit, or orders issued hereunder, or any other Pretreatment Standard or Requirement, unless such user first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the City to be necessary to achieve a consistent compliance.

(2) Liability Insurance. The City may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this Chapter, a previous wastewater discharge permit, or orders issued hereunder, or any other Pretreatment Standard or Requirement, unless the User first submits proof that it has obtained financial assurance sufficient to restore or repair damage to the POTW caused by its discharge.

(4) Payment of Outstanding Fees and Penalties. The City may decline to issue or reissue a wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this ordinance, a previous wastewater discharge permit, or order issued hereunder.

(5) Water Supply Severance. Whenever a User has violated or continues to violate provisions of this Chapter, orders, or permits issued hereunder, water services to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(6) Public Nuisance. Any violation of the prohibitions of effluent limitations of this Chapter, permits, or orders issued hereunder is hereby declared by a public nuisance and shall be corrected or abated as directed by the City. Any person(s) creating a public nuisance shall be subject to the provisions of Chapter 7 of the Wilsonville City Codes governing such

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nuisance, including reimbursing the City for any costs incurred in removing, abating or remedying said nuisance.

(7) Informant Rewards. The City may pay up to five hundred dollars (\$500) for information leading to the discovery of noncompliance by a User. In the event that the information provided results in an administrative fine or civil penalty levied against the industrial user, the Director is authorized to disperse up to ten percent (10%) of the collected fine or penalty to the informant. However, a single reward payment may not exceed ten thousand dollars (\$10,000).

(8) Contractor Listing. Users which have not achieved consistent compliance with applicable pretreatment standards and requirements are not eligible to receive a contract for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by an industrial user found to be in significant violation with pretreatment standards may be terminated at the discretion of the City.

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BUSINESS RECYCLING REQUIREMENTS

8.700. Definitions.

For the purposes of this Chapter, the following terms shall mean:

(1). Business. Any person or persons, or any entity, corporate or otherwise, engaged in commercial, professional, charitable, political, industrial, educational or other activity that is non-residential in nature, including public bodies. The terms shall not apply to businesses whose primary office is located in a residence, conducted as a home occupation. A residence is the place where a person lives.

(2). Source separate. To separate recyclable material from other solid waste.

8.710. Purpose.

The purpose of sections 8.700 through 8.750 is to comply with Business Recycling Requirements set forth in Metro Code chapter 5.10. A significant increase in business recycling will assist the Metro region in achieving waste reduction goals, conserving natural resources and reducing greenhouse gas emissions.

8.720. Business Recycling Requirements.

1. Businesses shall source separate from other solid waste all recyclable paper, cardboard, glass and plastic bottles and jars, and aluminum and tin cans for reuse or recycling.
2. Businesses shall ensure the provision of recycling containers for internal maintenance or work areas where recyclable materials may be collected, stored, or both.
3. Businesses shall post accurate signs where recyclable materials are collected, stored or both that identify the materials that the business must source separate for reuse or recycling and that provide recycling instructions.
4. Persons and entities that own, manage or operate premises with Business tenants, and that provide garbage collection service to those Business tenants, shall provide recycling collection systems adequate to enable the Business tenants to comply with the requirement of this section.

8.730. Exemption from Business Recycling Requirements.

A business may seek exemption from the business recycling requirement by providing access to a recycling specialist for a site visit and establishing that it cannot comply with the business recycling requirement for reasons that include, without limitation, space constraints and extenuating circumstances.

8.740. Compliance with Business Recycling Requirements.

A business or business recycling service customer that does not, in the determination of the City or the City's agent, comply with the business recycling requirement may receive a written notice of noncompliance. The notice of noncompliance shall describe the

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violation, provide the business or business recycling service customer an opportunity to cure the violation within the time specified in the notice and offer assistance with compliance.

A business or business recycling service customer that does not, in the determination of the City or the City's agent, cure a violation within the time specified in the notice of noncompliance may receive a written citation. The citation shall provide an additional opportunity to cure the violation within the time specified in the citation and shall notify the business or business recycling service customer that it may be subject to a fine.

8.750 Violations.

A business or business recycling service customer that does not cure a violation within the time specified in the citation may be subject to a fine provision pursuant to City Code Chapter 1.012, of up to \$250.00 for the first violation and up to \$500.00 for subsequent violations in a calendar year.

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CITY OF WILSONVILLE, OREGON

Industrial Pretreatment Program
Enforcement Response Plan

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SECTION I INTRODUCTION

The General pretreatment Regulations, 40 CFR 403.8(f)(1)(vi)(A) require POTW's with approved pretreatment programs to obtain remedies for noncompliance by any Industrial User. Specifically, 40 CFR 403.8(f)(5) requires the POTW to develop and implement an enforcement response plan.

EPA states that a violation occurs when any of the following conditions apply:

- Any requirement of the City's rules and regulations has not been met.
- A written request is not met within the specified time.
- A condition of a permit issued under the authority of rules and regulations is not met within the specified time.
- Effluent limitations are exceeded, regardless of intent or accident.
- False information has been provided by the discharge.

Each day a violation occurs is considered a separate violation. Each parameter that is in violation is considered to be a separate violation.

Actions that can be taken by the City, in response to violations, are described in this Enforcement Response Plan. .

This Enforcement Response Plan is intended to provide guidance to the City Staff for the uniform and consistent enforcement of the City Sewer Use Ordinance to all Users of the system. The Enforcement Response Plan should be considered a guide for making decisions on the appropriate actions to be taken to return the User to full compliance in the shortest possible time while not being excessive. For additional information see the City of Wilsonville Code, Chapter 8.

SECTION II. ENFORCEMENT REMEDIES

A. Preliminary Enforcement Contacts

It is of mutual interest to the City and the IU to resolve compliance problems with a minimum of formal coercion. As an aid to the communication process surrounding a formal enforcement action, the City will use the following informal responses:

1. Phone Calls

A phone call maybe the initial informal action taken by the City for missed deadlines and other minor incidents of noncompliance as detected by sampling, inspection and/or as

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soon as a compliance deadline is missed or noncompliance is detected. The City is not required to take this action prior to taking other enforcement options.

A written record of the phone conversation is kept and will contain the following information:

- name of company (IU);
- wastewater discharge permit number;
- name and title of person contacted;
- date and time; nature of violation;
- items discussed;
- results of conversation;
- initials or signature of City personnel initiating the phone call.

2. Informal Compliance Meeting

An informal compliance meeting may be held to discuss violations which have recurred, violations which remain uncorrected, or violations of a magnitude which warrant more communication between the City and the Industry. The compliance meeting is held specifically to include an authorized representative of the IU (e.g., vice president, general partner, or their duly authorized representative to ensure that he/she is aware that the industry is in noncompliance.

If possible, the compliance meeting should be held before significant noncompliance (SNC) is reached by the industrial user. The industrial user should already be aware of the criteria for SNC, and the compliance meeting will reinforce that the result of SNC includes enforcement measures mandated by federal regulations. The industry may in turn communicate any progress or measures it has taken to regain compliance.

B. Administrative Enforcement Remedies

Administrative Enforcement Remedies are actions that may be initiated at the City Staff level and are intended to be used as an escalation of enforcement. These enforcement actions are considered “formal” and are to be in a written format.

1. Notice of Violation

The Notice of Violation (NOV) is an appropriate initial response to any violations and may often be the first response. An informal enforcement action is not required prior to issuing a Notice of Violation. . The purpose of a NOV is to notify the industrial user of the detected violation. It may be the only response necessary in cases of infrequent and generally minor violations. As a general rule, the NOV will be issued not later than 5 business days after discovery of the violation. .

The NOV may be issued by the Pretreatment Coordinator.

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The NOV will require the IU to submit a written explanation of the violation and a plan for its satisfactory correction within 10 days of receipt of the NOV. If the user does not return to compliance or submit a plan of correction, the City will escalate to more stringent enforcement responses.

2. Administrative Order

An Administrative Orders (AO) are enforcement actions requiring the IU to take a specific action within a specific time period, and may require the IU to seek outside assistance or to modify their production process to eliminate continued non-compliance. An Administrative Order is considered an escalation of the enforcement beyond an informal enforcement action and a Notice of Violation. The City is not required to take informal or less severe enforcement actions prior to issuing an Administrative Order. It is recommended that in most cases a Notice of Violation be issued prior to issuing an Administrative Order to assure the IU management are aware of the problem before ordering an action that may impact the productivity of the IU. The terms of an AO may or may not be negotiated with IUs.

a. Cease and Desist Order

A Cease and Desist Order directs a user in significant noncompliance (SNC) to cease illegal or unauthorized discharges immediately or to terminate its discharge altogether. A Cease and Desist Order should be used in situations where the discharge could cause interference of a pass through, or otherwise create an emergency situation. The Order may be issued immediately upon discovery of the problem or following a hearing. In an emergency, the Cease and Desist Order may be given initially by telephone, with follow-up (within 5 days) by formal written notice.

b. Consent Order

The Consent Order combines the force of an AO with the flexibility of a negotiated settlement. The Consent Order is an agreement between the City and the IU normally containing three elements:

- compliance schedules;
- stipulated fines or remedial actions; and
- signatures of the City and industry representatives.

Consent Orders are intended to provide a scheduled plan of action to be taken by the IU (sometimes actions to be taken by the City) to return to compliance. The compliance schedule should identify all significant actions in a step wise order and when each step should be completed. Routine written reports should be required of the IU providing written documentation of the status of the Consent Order at the time of the report. Typically Consent Orders should not exceed six months in overall time, and not specific step to exceed a 90 day period. In some cases the completion of one consent order leads to the issuance of a second or third

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consent order dependent on the out come of the previous consent order. Consent orders are effective providing the IU discharge is not contributing to pass through or interference of the POTW. The City may establish interim permit limits or special discharge requirements while a Consent Order runs its course.

No informal or less severe enforcement action is required to be taken prior to issue of a Consent Order. Before issuing a Consent Order the City should consider the impact the IU's discharge is having on the POTW (pass through or interference) and the evidence that is used to determine the need for the order. The milestone dates established for completion of steps within the Consent Order become enforceable at the same level of a discharge limit of the permit or a requirement of the City ordinance.

3. Show Cause Order

An order to show cause directs the user to appear before the City, and explain it noncompliance, and who cause why more severe enforcement actions against the user should not go forward. The order to show cause is typically issued after information contacts, NOVs, Consent Orders or Compliance Orders have failed to resolve the noncompliance. However, the Show Case Order/hearing can also be used to investigate violations or previous orders.

The Show Cause Order will either be hand-delivered or mailed with return receipt required. The Order will indicate the nature of the violations and the proposed enforcement response. At the Show Cause meeting, the Public Works Director will present a factual report prepared as the basis for the proposed enforcement action. The IU will present exhibits, material and memoranda. A record of testimonial evidence will be kept by the City.

Within thirty (30) days following the Show Cause meeting, the PW Director will render a decision regarding an enforcement action to be taken, setting forth findings and stating reasons for taking the action. Affirmative defenses to discharge violations (WC, Section 8.318) will be taken into consideration of the Director's decision.

Within ten (10) working days of receiving notice of the enforcement action to be taken, the IU may appeal the Director's decision to the City Council, pursuant to WC, Section 8.602 (10).

4. Compliance Order

Compliance Orders are similar to Consent Orders, in that, specific actions are mandated and milestone dates are established for the completion of each mandatory action. The primary difference is that a Compliance Order is not negotiated with the IU. The City establishes the mandatory actions and milestone

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dates without consideration of the IU with the primary focus on protection of the POTW. Compliance Orders may include the acquisition of professional assistance, engineering design, additional or replacement pretreatment equipment, development of best management practices, action plans, increased or special testing and/or self-monitoring requirements, and other activities that the City may deem necessary to returning the IU to full compliance. Compliance Orders may establish interim limits and requirements while the IU is operating under the compliance order. The compliance order should require routine reporting during the course of the compliance order.

No previous enforcement action is required prior to issuance of a compliance order

5. Administrative Fines

Administrative Fine are a monetary penalties assessed by the City's Public Works Director for violations of pretreatment standards and requirements, violations of the terms and conditions of the discharge permit and/or violations of compliance schedules. Administrative fines are punitive in nature and not related to a specific cost borne by the City. Instead, such fines are intended to recapture the full or partial economic benefit of noncompliance, and to deter future violations. The maximum amount of the fine is \$5,000 for each day that each violation continues.

Administrative Fines are recommended as an escalated enforcement response, particularly when NOV's or administrative orders have not prompted a return to compliance. Whether administrative fines are an appropriate responses to noncompliance also depend greatly on the circumstances surrounding the violation. The City will consider the factors as set forth in Section III of this plan when determining the amount of the fine.

6. Emergency Suspension Order

The Public Works Director may suspend an industrial user's discharge and the industrial user's discharge permit, without informal notice or previous enforcement action, in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent endangerment to the health or welfare of persons, or an endangerment to the environment. Any industrial user notified of an emergency suspension must immediately stop or eliminate its discharge to the POTW. In the event of the industrial user's failure to immediately comply voluntarily with the suspension order, the City may sever sewer connection prior to the date of any show cause or termination hearing. The industrial user must submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrences before discharge to the POTW can be restored.

7. Termination of Permit

Termination of service is the revocation of an industrial user's privilege to discharge industrial wastewater into the City's sewer system. Termination may be accomplished by physical

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severance of the industry's connection to the collection system, by issuance of a suspension order which compels the user to terminate its discharge, or by court ruling. Termination of service is an appropriate response to industries which have not responded adequately to previous enforcement responses. Unlike civil and criminal proceedings, termination of service is an administrative response which can be implemented directly by the City. However, the decision to terminate service requires careful consideration of legal and procedural consequences.

Any industrial user who violates the Wilsonville Code of Ordinances, discharge permit or compliance orders is subject to discharge permit termination as an enforcement remedy. Non-compliant industrial users will be notified in writing of the proposed termination of their discharge permit and will be offered an opportunity to show cause why the action should not be taken. The Public Works Director is authorized to terminate an IU's discharge if it presents or may present an endangerment to the environment or if it threatens to interfere with the operation of the POTW

In contrast to the Emergency Suspension Order, the Notice of Termination of the Discharge Permit is to be used when significant changes in the industrial user's operations have occurred without authorization resulting in new pollutant contributions or volume of wastewater discharged. Furthermore, through the course of administering, monitoring and compliance activity, the City may acquire new information which was not available at the time the discharge permit was issued. Until corrections have been made, and continuing discharge compliance can be assured, the City may terminate the IU's permitted right to discharge into the City's POTW.

C. Judicial Enforcement Remedies

There are four judicial enforcement remedies which are available to the City, as outlined in Wilsonville Codes – Injunctive Relief, Civil Penalties, Criminal Penalties, and Remedies Non-Exclusive.

1. Injunctive Relief

Injunctive relief is the formal process of petitioning the Circuit Court of Clackamas County for the issuance of either a temporary or permanent injunction which restrains or compels the specific performance of the discharge permit, order or other required imposed on the activities of the industrial user. Injunctive relief is carried out by the City Attorney in conjunction with the City manager, Public Works Director and the Mayor.

2. Civil Penalties

Civil litigation is the formal process of filing lawsuits against industrial users to secure court ordered action to correct violations and to secure penalties for violations including the recovery of costs to the POTW of the noncompliance. It is normally pursued when the corrective action required is costly and complex, the penalty to be assessed exceeds that which the City can assess administratively, or when the industrial user is considered to be recalcitrant and unwilling to cooperate. Civil litigation also includes enforcement measures which require involvement or

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approval by the courts, such as injunctive relief and settlement agreements. Civil litigation is pursued by the City Attorney and only initiated as authorized by the City Council.

3. Criminal Prosecution

Criminal prosecution is the formal process of charging individuals and/or organizations with violations of ordinance provisions that are punishable, upon conviction, by fines and/or imprisonment. The purposes of criminal prosecution are to punish noncompliance established through court proceedings, and to deter future noncompliance. Criminal prosecutions are up to the discretion of the City Attorney and may be filed in municipal court.

4. Remedies Nonexclusive (§8.312)

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

D. Supplemental Enforcement Remedies

Supplemental or innovative enforcement remedies are used to complement the more traditional enforcement responses already described. Normally, supplemental responses are used in conjunction with more traditional approaches. The following are provided for in the City Code:

- Performance Bonds
- Liability Insurance
- Payment of Outstanding Fees and Penalties
- Water Supply Severance
- Public Nuisance
- Informant Rewards
- Contractor Listing

SECTION III – ASSESSMENT OF ADMINISTRATIVE FINES

A. Base-Penalty Matrix

The following matrix provides a sample of suggested base-penalty (BP) for administrative fines based on the magnitude of the violations. The City should keep in mind that the following suggested fines are not mandatory and should be applied based on the various factors discussed in this section.

Class of Violation	Major	Moderate	Minor
Class I	\$5,000	\$2,500	\$1,000
Class II	\$2,000	\$1,000	\$500
Class III	\$500	\$250	\$100

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B. Class of Violations

Class I:

- * Un-permitted discharge or failure to halt discharge which cause harm to the POTW and/or the environment.
- * Failure to comply with notification requirements of a spill or slug load or upset condition.
- * Violation of an Administrative Order or compliance schedule.
- * Failure to provide access to premises or records.
- * Any violation related to water quality which causes a major harm or poses a major risk of harm to public health or the environment.
- * Significant Noncompliance (40 CFR 403.8(f)(2)(vii)(A-H).
- * Process waste stream dilution as a substitute for pretreatment.

Class II:

- ** Operation of a pretreatment facility without first obtaining a Discharge Permit. (No harm to POTW or the environment).
- ** Any violation related to water quality which is not otherwise classified.
- ** Recurring violations of local discharge permit limits or Federal Standard.

Class III

- *** Un-permitted discharge which causes no harm to POTW.
- *** Failure to operate and maintain a pretreatment facility.
- *** Monitoring, record keeping, and reporting violations.
- *** First-time violation of a local permit limit or Federal Standard regulating the discharge of pollutants.

C. Magnitude of Violations

Major:

- pH value less than 5.0 or more than 11.0,.
- More than 2.0 times the maximum allowable limit established for regulated pollutants, other than pH.
- Anything directly attributable to an upset condition or damage of the POTW.
- Recurring failure to meet the terms of a compliance order or recurring failure to correct a known violation.
- Missed compliance milestone or report submittal deadline by more than 30 days without good cause.
- Any other violation meeting the definition of significant noncompliance (See Sections II and III, as well as the Enforcement Response Matrix).

Moderate:

- From 1.2 to 2.0 times the maximum allowable limit established for regulated pollutants, other than pH.
- Third Notice of Violations of a Discharge Permit condition or compliance order in a 12 month period.

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Minor:

- pH value of 5.0 to 5.5 and 10.0 to 11.0 to 1.2 times the maximum allowable limit for regulated pollutants, other than pH.
- Second Notice of Violation for the same Discharge Permit condition or compliance order in a 12 month period.
- Missed compliance milestone or report submittal deadline without good cause by up to 30 days.
- Violations detected during site visits which do not results in harm to the POTW or the environment.

D. Maximum/Minimum Fines

No administrative fine, civil or criminal penalty pursuant to this matrix shall be less than \$100. The maximum fine/penalty may not exceed \$5,000 per each day per violation.

E. Assessment of Fines/Penalties

1. Assessment Protocol

When determining the amount of an administrative fine or civil penalty to be assessed for any violation, the Public Works Director shall apply the following procedures:

- Determine the class and the magnitude of each violation.
- Choose the appropriate base penalty (BP) from the BP Matrix in paragraph A of this section.
- Starting with the base-penalty (BP), determine the total amount of penalty through application of the formula:

$$\mathbf{BP + [(0.1 \times BP) (P+H+O+R+C)] + EB}$$

Where:

BP = Base-Penalty

P = prior significant action taken against the IU. (Significant actions refers to any violation established either with or without admission by payment of a penalty.)

H = compliance history

O = violation repetitive or continuous

R = whether the violation resulted from an unavoidable accident, or a negligent, intentional or flagrant act

C = Cooperation and effort put forth to correct the violation

EB = Approximated dollar sum of the economic benefit that the IU gained through noncompliance.

2. Values for (P) shall be as follows:

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- (i) 0 if no prior significant actions or there is insufficient information on which to base a finding.
- (ii) 1 if the prior significant action is one Class Two or two Class Threes;
- (iii) 2 if the prior significant action(s) is one Class One or equivalent;
- (iv) 3 if the prior significant actions are two Class One or equivalents;
- (v) 4 if the prior significant actions are three Class Ones or equivalents;
- (vi) 5 if the prior significant actions are four Class Ones or equivalents;
- (vii) 6 if the prior significant actions are five Class Ones or equivalents;
- (viii) 7 if the prior significant actions are six Class Ones or equivalents;
- (ix) 8 if the prior significant actions are seven Class Ones or equivalents;
- (x) 9 if the prior significant actions are eight Class Ones or equivalents;
- (xi) 10 if the prior significant actions are nine Class Ones or equivalents, of it any of the prior significant actions were issued for any violation of WC, Chapter 8.
- (xii) In determining the appropriate value for prior significant actions as listed above, the Director shall reduce the appropriate factor by:
 - (1) A value of two (2) if all prior significant actions are greater than three years but less than five years old;
 - (2) A value of four (4) if all the prior significant actions are greater than five years old;
 - (3) In making the above restrictions, no finding shall be less than 0.
- (xiii) Any prior significant action which is greater than ten years old shall not be included in the above determination.

3. Values for (H) shall be as follows:

(H) = Past history of the IU to take steps to correct violations cited in prior significant actions. In no case shall the combination of (P) and (H) be a value of less than zero.

- (i) -2 if IU took all feasible steps to correct each violation contained in any prior significant action;

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- (ii) 0 if there is not prior history or if there is insufficient information on which to base a finding:

4. Values for (O) shall be as follows:

Where (O) = whether the violation was repeated or continuous

- (i) 0 if the violation existed for one day or less and did not recur on the same day;
- (ii) 2 if the violation existed for more than one day or if the violation recurred on the same day.

5. Values for (R) shall be as follows:

Where: (R) = whether the violation resulted from an unavoidable accident, or a negligent, intentional or flagrant act.

- (i) 0 if an unavoidable accident, or if there is insufficient information or make a finding.
- (ii) 2 if negligent
- (iii) 6 if intentional; or
- (iv) 10 if flagrant

6. Values for (C) shall be as follows:

Where: (C) is the Cooperation and effort put forth by the IU to correct the violation.

- (i) 2 if IU was cooperative and took reasonable efforts to correct the violation or minimize the effects of the violation;
- (ii) 0 if there is insufficient information to make a finding, or if the violation of the effects of the violation could not be corrected.
- (iii) 2 if IU was uncooperative and did not take reasonable efforts to correct the violation or minimize the effects of the violation.

7. Values for (EB) shall be as follows:

Where: (EB) = Approximated dollar sum of the economic benefit that the IU gained through noncompliance. The penalty may be increased by the value assigned to (EB), provided that the sum penalty does not exceed the maximum allowed. In order to ensure that no IU may be able to pollute as a cost of doing business, the PW Director is empowered to take more than one enforcement action against any noncompliance IU (WC, Section 8.140(2)).

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- (i) Add to the formula the approximate dollar sum of the economic benefit gained through noncompliance, as calculated by determining both avoided costs and the benefits obtained through any delayed costs, where applicable;
- (ii) The PW Director need not calculate nor address the economic benefit component of the civil penalty when the benefit obtained is de minimis;

SECTION IV. NON COMPLIANCE DEFINED

A. Noncompliance

Noncompliance is any violation of one or more of the, Wilsonville Code, Chapter 8, any of the conditions or limits specified in the IU's Wastewater Discharge Permit or any compliance order issued by the City. Enforcement action must be initiated for the following instances of noncompliance:

1. Industry failure to submit a permit application form;
2. Industry failure to properly conduct self-monitoring;
3. Industry failure to submit appropriate reports;
4. Industry failure to comply with appropriate pretreatment standards by the compliance deadline date;
5. Industry failure to comply with pretreatment limits as determined from review of self-monitoring reports or City sampling;
6. Industry falsification of information;
7. Sewer use violation of the municipal code

B. Significant Noncompliance:

Significant Noncompliance shall be applicable to all Significant users or any other Industrial User that violates paragraphs (3), (4) or (8) of this Section and shall mean:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameters during a six month period exceeded (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits. .
2. Technical Review Criteria (TRC) violations, defined as those in which thirty-three percent (33%) of more of wastewater measurements taken for each pollutant parameter taken during a six-month period equal or exceeded by the product of a numeric Pretreatment Standard or Requirement, including Instantaneous Limits multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
3. Any other violation of a Pretreatment Standard or Requirement (daily maximum or longer- term average, Instantaneous Limits or narrative standard) that the City determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel of the general public);

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4. Any discharge of pollutant 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.

5. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.

6. Failure to provide within forty five (45) days after the due date, 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.

7. Failure to accurately report noncompliance; or

8. Any other violation(s), which may include a violation of Best Management Practices, which the City determines will adversely affect the operation or implementation of the pretreatment program.

SECTION V. RANGE OF ENFORCEMENT REPOSESES

When the City is presented with the need for enforcement response, it will select the most appropriate response to the violation. The City will consider the following criteria when determining a proper response:

- . Magnitude of violation;
- . Duration of the violation;
- . Effect of the violation on the receiving water;
- . Effect of the violation on the POTW;
- . Compliance history of the industrial user; and
- . Good faith of the industrial user.

These six criteria are discussed in detail below:

1. Magnitude of the Violation

Generally, an isolated instance on noncompliance can be met with an informal response and a Notice of Violation or Consent Order. However, certain violations or patterns of violations are significant and must be identified as such. Significant Noncompliance (SNC) may be on an individual or long-term basis of occurrence. Categorization of an IU as being in SNC provides the City with priorities for enforcement action and provides a means for reporting on the IU performance history. SNC is a violation which meets one or more of the criteria set forth in Section IV B.

2. Duration of Violation

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Violations, regardless of severity, which continue over long periods of time will subject the industrial user to escalated enforcement actions. For example, an effluent violation which occurs in two out of three samples over a six-month period or a report which is more than 45 days overdue is considered SNC, while a report which is two days late would not be deemed significant.

The City's response to these situations must prevent extended periods of noncompliance from recurring. The City may issue an administrative order for chronic violations. If the industrial user fails to comply with the administrative order, the City will assess administrative penalties or initiate judicial action. If the prolonged violation results in serious harm to the POTW, the City will also consider terminating services or obtaining a court order to halt further violations as well as to recover the costs of repairing the damage.

3. Effect on the Receiving Water

One of the primary objectives of the national pretreatment program is to prevent pollutants from "passing through" the POTW and entering the receiving stream. Consequently any violation which results in environmental harm will be met with a SNC categorization and corresponding enforcement action. Environmental harm will be presumed whenever an industry discharges a pollutant into the sewerage system which:

- a. Passes through the POTW and causes a violation of the POTW's NPDES permit (including water quality standards); or
- b. Has a toxic effect on the receiving waters (i.e. fish kill).

The enforcement response should ensure the recovery from the noncompliance user of any NPDES fines and penalties paid by the City to any party whether governmental or otherwise. If a user's discharge causes repeated harmful effects, the City will seriously consider terminating service to the user.

4. Effect on the POTW

Some of the violations may have negative impacts on the POTW itself. For example, they may result in significant increases in treatment costs, interfere or harm POTW personnel, equipment, process, operations, or cause sludge contamination resulting in increased disposal costs. These violations will be categorized as SNC. For example, when the industrial user's discharge upsets the treatment plant, damages the collection system through pipe corrosion, causes an obstruction or explosion, or causes additional expenses (e.g. to trace a spill back to its source), the POTW's response will include cost recovery, civil penalties, and a requirement to correct the condition causing the violation.

5. Compliance History of the User

A pattern of recurring violations (even if different program requirements) may indicate whether that the user's treatment system is inadequate or that the user has taken a casual approach to operating and maintaining its treatment system. Accordingly, users exhibiting recurring compliance problems will be categorized as SNC. Compliance history is an important factor for deciding which of the two or three designated appropriate remedies to apply to a

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particular violator. For example, if the violator has a good compliance history, the City may decide to use the less severe option.

6. Good Faith of the User

The user's "good faith" in correcting its noncompliance is a factor in determining which enforcement response to invoke. Good faith is defined as the user's honest intention to remedy its noncompliance coupled with actions which give support to this intention. Generally, a user's demonstrated willingness to comply will predispose the City to select less stringent enforcement responses. However, good faith does not eliminate the necessity of an enforcement action. For example, if the City's POTW experiences a treatment upset, the City will recover its costs regardless of prior good faith. Good faith is typically demonstrated by cooperation and completion of corrective measures in a timely manner (although compliance with previous enforcement orders is not necessarily good faith).

SECTION VI. ENFORCEMENT PROCEDURES

The City must document procedures to evaluate industry self-monitoring data, reports and notices to accurately determine the compliance status of each significant user. These procedures must identify all violations, including non-discharge or reporting violations.

This Enforcement Response Plan designates responsibilities for this evaluation task. The task is assigned to the Pretreatment Coordinator since he/ she is familiar with the IU's and the City's pretreatment program rules and regulations. The Pretreatment Coordinator is responsible to identify the noncompliance and alert the Public Works Director (PWD) of the possible need for enforcement action.

The City will examine all monitoring data and reports within five (5) days of receipt. In order to review reports, the Pretreatment Coordinator will apply the following procedures:

- The Pretreatment Coordinator has established schedules in the Industrial Wastewater Discharge Permits to designate when self-monitoring reports are due. Each self-monitoring report will be checked to see that it is submitted by its due date, and is appropriately signed and certified. Likewise, the Pretreatment Coordinator will check notifications and report requirements.
- All analytical data will be screened by comparing it to categorical or local limits or to any additional discharge standards which may apply.
- All violations will be identified and a record made of the response. At a minimum, this will be accomplished by circling the violation, using a red ink marker.
- The Pretreatment Coordinator, Responsible for screening data, must alert the PWD to the noncompliance. This allows the City to determine its enforcement response in a timely manner.

Industrial waste discharges violations are usually detected by the following six ways:

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- (1) An industrial user reports a violation.
- (2) The City's collection system monitoring and field surveillance detects a possible violation.
- (3) The treatment plant process is upset.
- (4) An unauthorized waste disposal procedure is identified during a facility inspection.
- (5) Investigation of a Citizen Concern Action Report.
- (6) Emergency crews (i.e. police, fire, rescue) report a hazardous material incident.

Industrial source investigations will be initiated for each of the examples presented above, and ensuing enforcement actions will be of an escalating nature (see Enforcement Response Matrix). Enforcement will begin with administration remedies (e.g. Notice of Violation, Consent Orders, Compliance Orders). If necessary, civil/criminal penalties will be sought and/or emergency suspension of sewer service will be ordered. Appropriate fines and penalties (civil/criminal) will be sought, as provided in WC Chapter 8.

The enforcement plan uses a three-level approach to enforcement action toward any noncompliance event.

LEVEL I: Responses represent the enforcement efforts utilized by the City to bring the IU into compliance before a state of significant noncompliance (SNC) is reached. The following enforcement actions are utilized at this level of response.

<u>Response</u>	<u>City Personnel</u>
1. (Informal) Phone Call	Pretreatment Coordinator
2. (Informal) Compliance Meeting	Pretreatment Coordinator
3. Notice of Violation (WC, Section 8.602(2))	Pretreatment Coordinator
4. Consent Order (WC, Section 8.602(3))	Pretreatment Coordinator

LEVEL II: Responses are taken when an IU has reached significant noncompliance. Level II enforcement action must include the issuance of an Administrative Order, as described below:

<u>Response</u>	<u>City Personnel</u>
1. Compliance Order (WC, Section 8.602(5))	Public Works Director
2. Cease and Desist Order (WC, Section 8.602 (6))	Public Works Director City Attorney

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- | | |
|--|--|
| 3. Emergency Suspension
(WC, Section 8.602 (8)) | Public Works Director
City Attorney |
| 4. Termination of Permit
(WC, Section 8.602(9)) | Public Works Director
City Attorney |

When an IU is in SNC, the Pretreatment Coordinator will do the following:

1. Report such information to DEQ as a component of the City’s annual pretreatment program report.
2. Include the IU in the annual published list of industries which were significantly violating applicable pretreatment standards and requirements during the previous 12 months. The procedures the ESM will follow for compiling the list of IU’s, includes:
 - a. Prepare a compliance history from the City’s pretreatment records for each SIU.
 - b. Review the history of each SIU for either a pattern of noncompliance, or if the SIU has been or continues to be in SNC.
 - c. To the extent that an SIU meets the criteria in (b), above, the SIU will be placed on the list for publication in the largest daily newspaper within the City of Wilsonville.
 - d. The published list of IU’s in SNC will include the following information:
 - I. Duration of violation.
 - ii. Parameters and/or reporting requirements violated.
 - iii. Compliance actions taken by the City.
 - iv. Whether or not the IU is currently in compliance or on a compliance schedule.

LEVEL III: This level of enforcement is reserved for the extreme occasion when the IU is in SNC and does not respond to an Administrative Order, does not adhere to compliance schedules, and where fines have not been effective in bringing the IU into compliance with pretreatment regulations. Level III enforcement may also be used for willful discharge of wastewater in amounts which cause pass through or interference, and cases of falsification. The timeframe for initiating Level III enforcement actions will range from immediate (e.g. reasonable potential to cause harm to the public, the POTW, or the environment, or a court ordered injunction for gaining access to an IU’s facility) to not more than sixty (60) days. This level of enforcement requires the consultation of the City Attorney to determine the appropriateness and legal basis for the action to be implemented.

- | <u>Response</u> | <u>City Personnel</u> |
|--|-------------------------------|
| 1. Injunctive Relief
(WC, Section 8.604(1)) | City Attorney
City Council |
| 2. Civil Penalties | City Attorney |

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- | | |
|-----------------------------|---------------------------------------|
| (WC, Section 8.604(2)) | City Council |
| 3. Criminal Prosecution | City Attorney |
| (WC, Section 8.604(3)) | City Council |
| 4. Supplemental Enforcement | Public Works Director, City Attorney, |
| (WC, Section 8.606) | City Council |

SECTION VII. TIME FRAMES FOR ENFORCEMENT ACTION AND FOLLOW-UP

The City will provide timely response to violations. In Section I and Section IV it has been established that the Pretreatment Coordinator will review industrial user reports within five (5) days of receipt. Similarly, violations observed in the field or upon receipt of compliance information will be responded to within five (5) days. Complex or larger violations may require a longer response time, and communications will be made with the industrial user (IU) regarding the time of the City's response. All formal enforcement notices will either be hand-delivered or mailed with return receipt required.

After its initial enforcement response, the City will closely track IU's progress toward compliance. This may be done by inspection, as well as timely receipt of required progress reports. The frequency of user self-monitoring may be increased. When follow-up activities indicate that the violation persists or that satisfactory progress is not being made, the City will escalate its enforcement response, using the steps of the enforcement matrix as a guide.

The Pretreatment Coordinator will establish a manual log to record the receipt of required reports. This log will contain 12 sections. Each section will be titled with the name of the month, January through December. The pages in each monthly section will list all of the industrial users who are required to report. Under each listed industry will be listed the type of report due and its due date. Following the due date will be a place to write the date the report is actually received. Next to each listed industry, also on the same line which identifies required reports and due dates, will be an area to note a summary of compliance status, including enforcement actions, calculations of administrative fines and/or SNC, and enforcement action timelines.

At the end of the month, the material in the report log will be transferred to a computer file created for each industrial user for ongoing storage and retrieval. The written records will be placed in a loose-leaf notebook developed to hold all pretreatment information pertinent to the particular industry.

In summary, the tracking of noncompliance, including SNC will be accomplished as follows:

1. Monitoring reports, inspection reports and compliance reports will be reviewed by the Pretreatment Coordinator within 5 days of receipt. Likewise, all pretreatment program violations will be identified and documented and the initial (Level 1) enforcement response (e.g. phone call

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or compliance meeting **and** an NOV or Consent Order) will occur within 5 days of receipt of reports.

2. Violations classified by the Pretreatment Coordinator as SMC will be followed with an enforceable Level II order to be issued by the Public Works Director within 3 days of receipt or detection of noncompliance.

3. Assisted by the City Attorney, the Pretreatment Coordinator will respond to persistent or recurring violations with an escalated enforcement response (Level III) within 60 days after the initial enforcement action. Violations which threaten health, property or the environment will be treated as an emergency and an immediate enforcement response (e.g. Termination of Permit, Suspension Order, Injunctive Relief) will be initiated.

SECTION VIII. RESPONSIBILITIES OF PERSONNEL

A. POTW Supervisor

The wastewater treatment plant Supervisor is responsible for the overall operation and maintenance of the POTW, including employee safety, and protection of the treatment plant. The Supervisor is also responsible for compliance with the NPDES permit for wastewater discharge. The Supervisor has the authority to recommend to discontinue sewer service in emergency situations where there reasonably appears to present an imminent endangerment or substantial endangerment to the health or welfare of persons. The Supervisor will work under the direction of the Public Works Director.

B. Pretreatment Coordinator (PC)

The City will have a Pretreatment Coordinator who will be an individual thoroughly familiar with the program requirements and responsible for ensuring implementation of the City's pre-treatment program requirements. The Pretreatment Coordinator is also responsible for the administration and implementation of the pretreatment program. The Pretreatment Coordinator will screen monitoring data, do inspections, and detect noncompliance. The Pretreatment Coordinator will be the person typically working with industrial users. The Pretreatment Coordinator is responsible for recommending to the Public Works Director any enforcement action and publishing the annual list of significant noncompliance violators. The Pretreatment Coordinator will also review industrial user reports and make reports of violations. The Pretreatment Coordinator is also responsible to track all actions of enforcement, by establishing time lines and all necessary follow-up and make recommendations to the Public Works Director, City Attorney and City Council for enforcement action. The PC will work under direction of the Public Works Director.

C. Public Works Director (PWD)

As provided by WC, Section 8.006(58), the Public Works Director is the person designated to supervise and assume responsibility for the overall operations of the City's public works infrastructure, including the POTW, NPDES, permit compliance and the industrial

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pretreatment program. The PWD is primarily involved in the escalation of enforcement responses and determining administrative fines. The Public Works Director works under the direction of the City Manager and supervises the Pretreatment Coordinator.

D. City Attorney

The City Attorney will be responsible for advising staff and City Council on pretreatment enforcement matters. The Attorney works under the direction of the City Council. The City Attorney will also be responsible for preparation and implementation of judicial proceedings.

E. City Council

The City Council for the City of Wilsonville will be responsible for authorizing any Level III enforcement action taken, except in an emergency. As defined by City Charter, the City Council will be ultimately responsible for effluent quality, sludge use and disposal, NPDES compliance, the issuance of administrative orders, fines and assessments, and any judicial action followed by the sewer use ordinance.

SECTION IX. ENFORCEMENT RESPONSE MATRIX

A. Definitions

AF	Administrative Fee
CA	City Attorney
CC	City Council of the City of Wilsonville
CDO	Cease and Desist Order. Unilateral order to require immediate IU compliance
CM	Compliance Meeting
CO-1	Consent Order. Voluntary compliance agreement, including specified timeframe
CO-2	Compliance Order. Unilateral order to require IU compliance within specified timeframe
ES	Emergency suspension of IU discharge and discharge permit
ESM	Environmental Services Manager
IU	Industrial User
Level III	When IU does not comply with CO-1 and CO-2, and AF has not been effective in bringing the IU into compliance, this level of enforcement requires the consultation of the CA to determine appropriate legal action which may include; injunctive relief, civil penalties, criminal prosecution
NOV	Notice of Violation
PC	Pretreatment Coordinator
PWD	Public Works Director
SNC	Significant Noncompliance
SCO	Show Cause Order requiring IU to appear and demonstrate why the City should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules.
TP	Termination of Permit

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B. Applying the Enforcement Matrix

The matrix specifies enforcement actions for each type (or pattern) of noncompliance. The Pretreatment Coordinator will select an appropriate response from the list of enforcement actions indicated by the matrix. There are a number of factors to consider when selecting a response from among these actions. Several of the factors are identical to those used in originally establishing the guide:

1. Good faith or the user.
2. Compliance history of the user.
3. Previous success of enforcement actions taken against the particular user.
4. Violation's effect on the receiving waters.
5. Violation's effect on the POTW.

Since the remedies designed in the matrix are all considered appropriate, the city staff and city council must weigh each of the factors outlined above before deciding whether to use a more or less stringent response. City personnel shall consistently follow the enforcement response matrix. To do otherwise sends a signal to industrial users and the public that the City is not acting in a predictable manner and may subject the City to charges of arbitrary enforcement decision making, thereby jeopardizing future enforcement. The enforcement response matrix is to be used as follows.

1. Locate the type of noncompliance in the first column and identify the most accurate description of the violation in column 2.
2. Assess the appropriateness of the recommended response(s) in column 3. First offenders or users demonstrating good faith efforts may merit a more lenient response. Similarly, repeat offenders or those demonstrating negligence may require a more stringent response.
3. From column 3, apply the enforcement response to the industrial user. Specify correction action or other responses required of the industrial user, if any. Column 4 indicates personnel responsible for initiating each response.
4. Follow-up with escalated enforcement action if the industrial user's response is not received or the violation continues.

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SECTION IX. ENFORCEMENT RESPONSE MATRIX

ENFORCEMENT RESPONSE MATRIX

Noncompliance	Nature Of Violation	Violation Level	Enforcement Responses	Staff
I. Unauthorized Discharge (No Discharge Permit)				
A. Discharge without a Permit	IU unaware of requirement, no harm to POTW or Environment	I	Phone Call & NOV with Permit Application Form	PC
	IU unaware of requirement, Harm to POTW or Environment	II	CO-2 with AF	PWD
	Recurring Un-permitted Discharge	III	SCO	CA, CC
B. Discharge without a Permit Failure to Renew Existing Permit	IU did not submit permit renewal application within 90 days of permit expiration date	I	Phone Call & NOV with Permit Application Form	PC
	IU did not submit permit renewal application follow NOV and permit application, exceeded 45 days beyond submittal due date.	II	CO-2 with AF	PWD
	IU did not submit permit renewal application follow NOV and permit application, exceeded 60 days beyond submittal due date.	III	Confer with CA to determine appropriated Level III enforcement action	PWD, CA. CC

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ENFORCEMENT RESPONSE MATRIX (Continued)

Noncompliance	Nature Of Violation	Violation Level	Enforcement Responses	Staff
II. Discharge Limit Violation				
A. Reported Limit Violation	Sample results exceed numerical permit limit but does not exceed Technical Review Criteria for severity.	I	Phone Call &/or NOV	PC
	Four (4) violations for same pollutant with three (3) consecutive months	II	CM and CO-1	PWD
	Sample results exceed numerical permit limit (chronic violation) and exceeds the Technical Review Criteria (TRC)	II	CO-2 and AF pending severity of violation with adverse impact to POTW	PC, PWD,
	Recurring Violations resulting in SNC (Significant Noncompliance)	II	CDO with AF	PWD CA,
	Discharge limit violation which causes POTW interference, pass-through or health hazard.	II	CDO with AF	PWD, CA,
	Any discharge causing endangerment to the public or the environment	III	ES and SCO	PWD, CA, CC
B. pH Limit Violations – Grab Sampling	Any excursion detected during a 24-hour period.	I	Phone call & NOV,	PC
	Four (4) violations within 3 consecutive months	I	CM & CO-1	PC
	pH violations resulting in Significant Noncompliance	II	CO with possible AF	PWD, CA,CM
C. pH Limit Violation – continuous	Excursion exceeding 60 min. in 24 hour period (level 1) except that per 40 CFR 403.5(b)(2) any discharge below 5.0 is a violation. Excursions above 11.0 is also a violation.	I	Phone & NOV. ** 4 excursions in one quarter: CM & C)-1	PC
	Excursions exceeding 7 hours and 26 min. during a calendar	I	Phone call & NOV. **4 excursions in one quarter: CM &	PC

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	month> (Level I)		CO-1	
	Daily or monthly violations occurring during 66% or more of a 6 month period. (Level II)	II	CO-2 with AF	PWD
D. pH Limit Violation – resulting in harm to POTW or environment	pH violations resulting harm to POTW or environment are considered significant non compliance	II	If reported IU, CO-2 with possible AF. If not reported by IU, CDO with AF	PWD, CA

ENFORCEMENT RESPONSE MATRIX (Continued)

Noncompliance	Nature Of Violation	Violation Level	Enforcement Responses	Staff
II. Discharge Limit Violation (continued)				
E. Spill or Slug Discharge resulting in mass loading violations	Reported by IU: No damage to POTW, Isolated Occurrence.	I	Phone call & NOV.	PC
	Second occurrence within 6 month period.	I	CO-1	PC
	Reported by IU. Resulting in pass-through interference, or damage to POTW. Isolated occurrence.	II	CO-2 with possible AF	PWD
	Second occurrence within 6 month period.	III	Confer with CA to determine appropriated Level III enforcement action	PWD, CA. CC
	Not Reported by IU. No damage to POTW	I	CM and CO-1	PC
	Second occurrence within 6 month period.	II	CO-1 with possible AF	PWD, CA, CM
	Not Reported by IU. Resulting in interference, pass-through or damage	II	CDO with AF	PWD, CA
	Second occurrence within 6 month period.	III	Confer with CA to determine appropriated Level III enforcement action	PWD, CA. CC
III Monitoring and Reporting Violations				
A. Reporting Violations	Report is improperly signed or certified.	I	Phone call & NOV	PC
	Second occurrence within 6 month period	II	CM and CO-1	PC
	Scheduled reports late, 45 days or less, isolated incident	I	Phone call & NOV	PC
	Scheduled reports late	II	CO-2 with AF	PWD

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	more than 45 days.			
	Failure to Submit Reports; or reports are always late.	II	CDO with possible AF	PWD, CA, PC
	Incomplete Reports	I	Phone Call &/or NOV second incident CM and CO-1	
	Failure to Accurately Report noncompliance	II	CO-2 with AF	PWD, CA
	Scheduled reports late more than 60 days	III	SCO	PWD, CA, CC

ENFORCEMENT RESPONSE MATRIX (Continued)

Noncompliance	Nature Of Violation	Violation Level	Enforcement Responses	Staff
III Monitoring and Reporting Violations (continued)				
A. Reporting Violations (continued)	Report Falsification	III	Confer with CA to determine appropriated Level III enforcement action; Possible criminal actions	PWD, CA, CC
B. Monitoring Violations	Failure to monitor all pollutants as specified by discharge permit	I	Phone Call &/or NOV	PC
	Second occurrence within 6 month period	II	CO-1with a possible AF	PWD, PC
	Improper sampling with evidence of intent	III	SCO and Confer with CA to determine appropriated Level III enforcement action; Possible criminal actions	PWD, CA, CC
	Failure to install monitoring equipment. Delay of 30 days or less, with good cause	I	Phone Call &/or CO-1	PC
	Failure to install monitoring equipment. Delay of more than 30 days.	II	CM andCO-1 with possible AF	PWD
	Pretreatment Equipment and Monitoring Equipment no maintained or out of service, evidence of neglect.	II	CO-2 with possible AF	PWD

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ENFORCEMENT RESPONSE MATRIX (Continued)

Noncompliance	Nature Of Violation	Violation Level	Enforcement Responses	Staff
III Monitoring and Reporting Violations (continued)				
C. Compliance Schedule in Discharge Permit	Milestone Date missed by 30 days or less	I	Phone Call &/or NOV	PC
	Milestone date missed by more than 30 days or delay will affect other compliance dates (good cause of delay)	I	CM & CO-1	PC
	Milestone date missed by more than 30 days or delay will affect other compliance dates (without good cause for delay).	II	CO-2 with possible AF	PWD
	Violation of Compliance Schedules issued to enforcement discharge permit compliance schedule.	III	SCO and Confer with CA to determine appropriated Level III enforcement action; Possible criminal actions	PWD, CA, CC
IV. Other Violations				
A. Waste Streams are Diluted in lieu of Pretreatment	Initial Violation	II	CDO with possible AF	PWD, CA
	Recurring Violations	III	SCO and Confer with CA to determine appropriated Level III enforcement action; Possible criminal actions	PWD, CA, CC
B. Failure to meet compliance date for starting construction or attaining final compliance.	No Harm to POTW or environment. Delay, with good cause, less than 90 days.	I	CM and CO-1	PC
	Delay exceeds 90 days	II	CO-2 with possible AF	PWD
C. Failure to Properly Operate and Maintain a Pretreatment Facility	Evidence of neglect of intent	II	CO-2 with possible AF	PWD

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ENFORCEMENT RESPONSE MATRIX (Continued)

Noncompliance	Nature Of Violation	Violation Level	Enforcement Responses	Staff
V. Violations Detected During Site Visit				
A. Entry Denied by the IU	Entry consent or copies of records denied.	II	Obtain warrant and return to IU for site visit. Follow-up with SCO for TP	PC PWD, CA, CC
B. Illegal Discharge	No Harm to POTW or environment	I	CM and CO-1	PC,
	Discharge causes harm or there is evidence of willful intent or neglect.	II	CDO with possible AF	PWD
	Recurring with evidence of willful intent or neglect.	III	SCO and Confer with CA to determine appropriated Level III enforcement action; Possible criminal actions	PWD, CA, CC
C. Improper Sampling	Unintentional sampling at incorrect location	I	Phone Call &/or NOV	PC
	ReOccurring unintentional sampling and incorrect location	II	Phone call &/or NOV	PC
	Reoccurring unintentional using incorrect techniques	II	Phone Call &/or NOV	PC
	Unintentionally using incorrect sample collection techniques	I	Phone Call &/or NOV	PC
D. Inadequate Record Keeping	Inspection finds records incomplete or missing	I	NOV possible CO-1	PC
	Recurrence of records incomplete or missing.	II	CO-2 with possible AF	PWD
E. Failure to report additional monitoring	Inspection finds additional monitoring data	I	NOV with possible CO-1	PC
	Recurrence of failure to report additional monitoring data.	II	CO-2 with possible AF	PWD

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SUMMARY OF TIME FRAMES FOR RESPONSES

1. Compliance Reports – reviewed within 5 days of receipt.
2. All violations will be identified and documented within 5 days of receiving compliance information.
3. **Level I** Enforcement Response (NOV, CO-1) – within 5 days of violation detection.
4. **Level II** Enforcement Response (CO-2, CDO, EX, TP, SCO) – within 30 days of violation detection.
5. **Level III** Enforcement Response (judicial and supplemental enforcement actions) time frame is subject to case-by-case legal review by the City Attorney, but in no case will the initiation of a Level III action exceed 60 days.
6. Recurring Violations – follow-up enforcement within 60 days.
7. Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.

**Entire Chapter 8 of the Code repealed and replaced by Ordinance No. 654 adopted on August 18, 2008.
Section 8.700-8.750 Added by Ordinance No. 664, adopted 6/1/09
Amended by Ordinance No. 689, adopted January 20, 2011 (correct scrivener errors)
Amended by Ordinance No. 753, adopted November 3, 2014**

Oregon State Spill Rules

State rules regarding spills or releases of oil and/or hazardous substances is found in OAR 340, Division 142 or go to the website at <http://www.deq.state.or.us/regulations/rules.htm>. The rules state: In the event of a spill or release or threatened spill or release of oil or hazardous material, the person owning or having control over the oil or hazardous material shall take the following actions, as appropriate.

- Immediately implement the site's Spill Prevention Control and Countermeasure (SPCC) or contingency plan.
- If no plan exists, immediately take the following actions:
 - a. Activate alarms or warn persons in the immediate area.
 - b. Undertake every reasonable method to contain the oil or hazardous material.
- In the case of a medical emergency or public safety hazard, notify local emergency responders (fire department, ambulance, etc.) using 911 where available.
- If the amount of oil or hazardous material exceeds the reportable quantity in any 24-hour period, report the spill or release to the **Oregon Emergency Response System (1-800-452-0311 in-state, and (503) 378-4124 out-of-state)**.

If the quantity of oil or hazardous material exceeds the quantity referenced in "d" below, report the spill or release to the **National Response Center, 1-800-424-8802**.

Remember: *All hazardous wastes are hazardous substances, but all hazardous substances are NOT hazardous waste.*

Reportable Quantity

Reportable quantity as defined in OAR 340-142-0050:

- (1) Spills and releases, or threatened spills or releases of oil or hazardous materials as defined by OAR 340-142-0005(9) in quantities equal to or greater than the following amounts must be reported
 - a. Any quantity of radioactive material or radioactive waste;
 - b. If spilled or discharged into waters of the state or in a location from which it is likely to escape into waters of the state any quantity of oil that would produce a visible film, sheen, oily slick, oily solids, or coat aquatic life, habitat or property with oil, but excluding normal discharges from properly operating marine engines;
 - c. If spilled on the surface of the land, and not likely to escape into waters of the state, any quantity of oil over one barrel (42 gallons);
 - d. An amount equal to or greater than the quantity listed in 40 CFR Part 302– Table 302.4 (List of Hazardous Substances and Reportable Quantities) and amendments adopted prior to July 1, 2002;
 - e. Ten pounds or more of a hazardous material not otherwise listed as having a different reportable quantity by the Department or the United States Environmental Protection Agency on the list of hazardous substances in 40 CFR 302.4;
 - f. Any quantity of chemical agent (such as nerve agents GB or VX, blister agent HD, etc);
 - g. Two hundred pounds (25 gallons) of pesticide residue;
 - h. Any quantity of a material regulated as a Chemical Agent under ORS 465.550;
 - i. Any quantity of a material used as a weapon of mass destruction, or biological weapon;
 - j. One pound (1 cup) or more of dry cleaning solvent, including perchloroethylene, spilled or released outside the designed containment by a dry cleaning facility regulated under ORS 465.505(4).

