



Eugene City Council

101 W 10th Ave., Suite 203
Eugene, OR 97401
541-682-5010 • 541-682-5414 Fax
www.eugene-or.gov

EUGENE CITY COUNCIL AGENDA

April 26, 2023

12:00 p.m. CITY COUNCIL WORK SESSION

City Council meetings will continue to be held in hybrid format using in person and virtual meeting technology. Information about online or other options for access and participation will be available at <https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials>

Meeting of April 26, 2023; Her Honor Mayor Lucy Vinis Presiding

Councilors

Randy Groves, President

Alan Zelenka

Greg Evans

Emily Semple

Matt Keating, Vice President

Jennifer Yeh

Mike Clark

Lyndsie Leech

12:00 p.m. CITY COUNCIL WORK SESSION

1. EXECUTIVE SESSION: Pursuant to ORS 192.660(2)(i)

2. WORK SESSION: Municipal Court Judge Annual Evaluation

3. WORK SESSION: Industrial Pretreatment Program Code Updates

The Eugene City Council welcomes your interest in these agenda items. This meeting location is wheelchair-accessible. For the hearing impaired, an interpreter can be provided with 48 hours' notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hours' notice. To arrange for these services, contact the receptionist at 541-682-5010. City Council meetings are telecast live on Metro Television, Comcast channel 21, and rebroadcast later in the week.

El consejo de la Ciudad de Eugene agradece su interés en estos asuntos de la agenda. El lugar de la reunión tiene acceso para sillas de ruedas. Se puede proveer a un intérprete para las personas con discapacidad auditiva si avisa con 48 horas de anticipación. También se puede proveer interpretación para español si avisa con 48 horas de anticipación. Para reservar estos servicios llame al 541-682-5010. Las reuniones del consejo de la ciudad se transmiten en vivo por Metro Television, Canal 21 de Comcast y son retransmitidas durante la semana.

For more information, contact the Council Coordinator at 541-682-5010,
or visit us online at www.eugene-or.gov.

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Work Session: Municipal Court Judge Evaluation Process

Meeting Date: April 26, 2023
Department: Central Services
www.eugene-or.gov

Agenda Item Number: 2
Staff Contact: Becky DeWitt
Contact Telephone Number: 541-682-5659

ISSUE STATEMENT

This agenda item is an opportunity for Council to discuss information provided to Council as part of the informal evaluation process for Presiding Judge Greg Gill consistent with Eugene Code 2.011(2). Judge Gill was hired as the Municipal Presiding Judge on August 30, 2019.

BACKGROUND

The presiding Municipal Court judge performs and oversees all judicial functions of the Eugene Municipal Court. In accordance with Eugene Code 2.011(2), the City Council will review and evaluate the Judge's performance and salary annually. The City Code has specific requirements around the evaluation process:

- (2) The performance of the presiding municipal judge shall be evaluated:
- (a) Through an informal self-evaluation submitted to the council annually;
 - (b) Through an informal evaluation submitted to the council every two years; and
 - (c) Through a formal evaluation, conducted every four years by an evaluation committee.

The complexities associated with the last few years have impacted the typical process. To address the delayed start of the evaluation process, 2021 was treated as year one for evaluation purposes and that process complied with EC 2.011(2)(a). The calendar year 2022 was then treated as year two for evaluation purposes to comply with EC 2.011(2)(b) and calendar year 2023 will be treated as year three. This evaluation covers 2022, and it is anticipated that staff will return to Council in January of 2024 to present Judge Gill's self-evaluation for 2023.

With respect to compensation, on January 19, 2022, Council unanimously passed a motion to authorize the Council President to negotiate and execute an amendment to Judge Gill's employment contract allowing for discretionary salary adjustments for the years that he is not formally evaluated by Council. Judge Gill's current annual salary is \$153,920 and his employment agreement provides for Cost-of-Living Allowance (COLA) increases at the same time and at the same amount as the non-represented employee group.

COUNCIL OPTIONS

In addition to discussing his performance, this is Council's opportunity to discuss whether it wants to award Judge Gill a merit increase to his salary. The Council has the sole authority to determine

compensation for the Presiding Municipal Court Judge. The Council has a wide variety of options available to them including, but not limited to, directing staff to execute an employment agreement amendment providing for a compensation adjustment of a set percentage, a compensation adjustment to a step on a commiserate non-represented salary pay grade, or taking no action.

Separately, the Presiding Municipal Court Judge position does not currently have a salary range. If the Council so desires, Council could choose to take this opportunity to establish a salary range for the position. Establishing a salary range for the Presiding Judge position is not required, it is solely at the Council's discretion.

To inform Council's discussion and decision, Attachment A is information related to the current salary for the Presiding Judge, as well as market data and the City's 12 non-represented employee salary grades, within which most of the City's non-represented positions fall.

SUGGESTED MOTIONS

Move to authorize the Council President to execute an amendment to Greg Gill's employment contract awarding him merit increase of _____ [percentage or specific dollar amount].

OR

Move to authorize the Council President to execute an amendment to Greg Gill's employment contract setting Gill's compensation at _____ .

And (if desired)

Move to authorize the Council President to execute an amendment to Greg Gill's employment contract establishing a Presiding Judge salary range of [____] to [____] and for the range to adjust consistent with COLA adjustments for non-represented staff.

ATTACHMENTS

A. Presiding Judge Compensation Options

Judge Gill's self-evaluation and stakeholder feedback will be provided under separate cover prior to the work session.

FOR MORE INFORMATION

Staff Contact: Becky DeWitt
Telephone: 541-682-5659
Staff E-Mail: bdewitt@eugene-or.gov

Presiding Municipal Court Judge Compensation Options

Current Salary: \$153, 920/Annually (\$74.00/Hourly)

Judge Gill's employment contract allows for discretionary salary adjustments for the years that he is not formally evaluated by Council and provides for Cost-of-Living Allowance (COLA) increases at the same time and at the same amount as the non-represented employee group.

To help inform Council's discussion on this topic, the following data points are provided:

- Oregon Municipal Court Salary Data
- City of Eugene Non-Represented Pay Scales (attached)

Oregon Municipal Court Salary Data:

City	Population	Base Salary	Full-Time (FT) or Part-Time (PT)?	Notes	Full-Time Hourly Rate Equivalent	Specialty Courts?
Salem	179,605	\$136,011	FT		\$65.39	None
Bend	107,305	\$156,000-\$364,000	PT	No additional information provided for context.	NA	None
Beaverton *	98,216	\$172,926	FT		\$83.14	Behavioral Health Court; B-SOBR
Medford	88,357	\$135,000	FT		\$64.90	None
Springfield	62,178	\$124,417	FT	Approximately 32 hours/week	\$74.77	None
Corvallis	60,199	\$85,626	PT	Approximately 36 hours/month	NA	None
Tigard	56,489	\$171,705	FT		\$82.55	None
Roseburg/Myrtle Creek	27,934	\$68,220	PT	Minimum 20 hours/week, covers both jurisdictions	\$65.60	None

*For purposes of comparison, based on available data, the Beaverton Municipal Court is the only Oregon Municipal Court that operates additional specialty courts outside of DUII Recovery programs.

Non-Rep Salary Grades and Steps										
Grade	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
1	\$53,476.80	\$55,265.60	\$57,054.40	\$58,843.20	\$60,632.00	\$62,420.80	\$64,209.60	\$65,998.40	\$67,787.20	\$69,513.60
2	\$57,761.60	\$59,696.00	\$61,630.40	\$63,564.80	\$65,499.20	\$67,433.60	\$69,368.00	\$71,302.40	\$73,236.80	\$75,088.00
3	\$62,379.20	\$64,459.20	\$66,539.20	\$68,619.20	\$70,699.20	\$72,779.20	\$74,859.20	\$76,939.20	\$79,019.20	\$81,099.20
4	\$67,995.20	\$70,262.40	\$72,529.60	\$74,796.80	\$77,064.00	\$79,331.20	\$81,598.40	\$83,865.60	\$86,132.80	\$88,379.20
5	\$74,110.40	\$76,585.60	\$79,060.80	\$81,536.00	\$84,011.20	\$86,486.40	\$88,961.60	\$91,436.80	\$93,912.00	\$96,387.20
6	\$80,787.20	\$83,470.40	\$86,153.60	\$88,836.80	\$91,520.00	\$94,203.20	\$96,886.40	\$99,569.60	\$102,252.80	\$105,019.20
7	\$86,174.40	\$89,523.20	\$92,872.00	\$96,220.80	\$99,569.60	\$102,918.40	\$106,267.20	\$109,616.00	\$112,964.80	\$116,334.40
8	\$93,932.80	\$97,593.60	\$101,254.40	\$104,915.20	\$108,576.00	\$112,236.80	\$115,897.60	\$119,558.40	\$123,219.20	\$126,817.60
9	\$102,377.60	\$106,350.40	\$110,323.20	\$114,296.00	\$118,268.80	\$122,241.60	\$126,214.40	\$130,187.20	\$134,160.00	\$138,216.00
10	\$112,632.00	\$117,020.80	\$121,409.60	\$125,798.40	\$130,187.20	\$134,576.00	\$138,964.80	\$143,353.60	\$147,742.40	\$152,048.00
11	\$119,392.00	\$124,030.40	\$128,668.80	\$133,307.20	\$137,945.60	\$142,584.00	\$147,222.40	\$151,860.80	\$156,499.20	\$161,158.40
12	\$131,331.20	\$136,448.00	\$141,564.80	\$146,681.60	\$151,798.40	\$156,915.20	\$162,032.00	\$167,148.80	\$172,265.60	\$177,278.40

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Work Session: Industrial Pretreatment Program Code Updates

Meeting Date: April 26, 2023
Department: Public Works
www.eugene-or.gov

Agenda Item Number: 3
Staff Contact: Michelle Miranda
Contact Telephone Number: 541-682-8615

ISSUE STATEMENT

In November 2022, the Oregon Department of Environmental Quality (OR-DEQ) issued a revised National Pollutant Discharge Elimination System (NPDES) Waste Discharge Permit to the Metropolitan Wastewater Management Commission (MWMC). The last revision to this permit occurred in 2002. The permit requires amendments to sections of the Eugene Code related to use of the municipal wastewater sewer system and treatment plant by industrial and commercial users. Staff will provide information about the Industrial Pretreatment Program, amendments of the sections of Eugene Code 6.501 – 6.596.

BACKGROUND

Established as part of the Clean Water Act, the National Pretreatment Program is a cooperative effort of federal, state, and local regulatory agencies established to protect public health, wastewater infrastructure, and water quality. The local pretreatment program was first established in 1984 and has been very effective in protecting the health of the community and the environment, and specifically the Willamette River. The program regulates wastewater discharged by industries and other non-domestic sources into the municipal wastewater sewer systems. Oregon Revised Statutes stipulates that municipal wastewater treatment plants must implement an Industrial Pretreatment Program that meets the requirements outlined in the Federal Code of Regulations (CFR) 403 and Schedule E of the NPDES permit. The Industrial Pretreatment Program sets restrictions on what industrial and commercial facilities can discharge to the municipal wastewater sewer system and treatment plant. These restrictions, or Local Limits, are developed to protect operations and ensure compliance with federal, state, and local requirements.

The rules governing the Industrial Pretreatment Program appear in Eugene Code 6.501 – 6.596 and 6.995 and were last amended in 1997. In December of 2022, the MWMC submitted a revised Model Pretreatment Ordinance, along with uniform City Ordinances from the City of Eugene and the City of Springfield. The MWMC received conditional approval by OR-DEQ for these submittals in February 2023. A public notice process ended on March 31, 2023. A Public Hearing was conducted by the MWMC on April 14, 2023 and the Model Pretreatment Ordinance was approved by Resolution 23-07. The proposed amendments update the code with current federal and state requirements, and satisfy requirements included in MWMC's NPDES Waste Discharge Permit.

April 26, 2023 Work Session – Item 3

COUNCIL OPTIONS

Informational only. No action is required at this time. A public hearing is scheduled for May 15, 2023.

CITY MANAGER'S RECOMMENDATION

This item is informational only. Following the May 15, 2023 public hearing and City's receipt of any testimony, the City Manager will make a recommendation to be included in the council's materials for its May 22, 2023 meeting.

ATTACHMENTS

- A. Proposed Eugene Code 6.550 – 6.582 and 6.584
- B. Proposed Ordinance Concerning Industrial Pretreatment – Repealing Sections 6.501 – 6.596

FOR MORE INFORMATION

Staff Contact: Michelle Miranda
Telephone: 541-682-8615
Staff E-Mail: MMiranda@eugene-or.gov

INDUSTRIAL PRETREATMENT PROGRAM

6.550 Industrial Pretreatment Program — General Provisions.

(1) Purpose and Policy. EC 6.550 to 6.586 set forth uniform requirements for Users of the Publicly Owned Treatment Works for the City 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 regulations promulgated pursuant to the Clean Water Act, including but not limited to, and the General Pretreatment Regulations (Title 40 of the *Code of Federal Regulations* CFR Part 403) and National Categorical Pretreatment Standards (40 CFR Chapter 1 Subchapter N).

(a) The objectives of EC 6.550 to 6.586 are:

1. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with the operation of the system or contaminate the resulting sludge;
2. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
3. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
4. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works; and
5. To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

(b) In achieving the objectives of EC 6.550 to 6.586, it shall be the policy of the City to actively support the community's commerce and industry through accommodation, assistance and cooperation consistent with the City's responsibility to protect the waters of the state from pollution and to secure the health, safety and welfare of the residents of the metropolitan area.

(c) Pollutants shall be accepted into the Publicly Owned Treatment Works subject to regulations and requirements as may be promulgated by state and federal regulatory agencies or the City for the protection of sewerage facilities and treatment processes, public health and safety, receiving water quality and avoidance of nuisance.

(d) The City, in carrying out the provisions of EC 6.550 to 6.586 regarding industrial discharge of pollutants by Users into the Publicly Owned Treatment Works necessary for the proper disposal of sewage and drainage from the City and adjacent territory, is further

authorized, in its administrative discretion, to adopt and to promulgate as regulations any laws of the state or the federal government.

(e) Discharge permit conditions shall be predicated on federal, state and local regulations and requirements and on the results of analysis of the type, concentration, quantity and frequency of discharge including the geographical relationship of the point of discharge to sewerage and treatment facilities. Discharge permit conditions shall be reevaluated upon expiration of the permit and may be revised by the City Manager as required, to remain consistent with local, state or federal laws, regulations and requirements or to meet any emergency.

(f) Discharge permits may include, but shall not be limited to, conditions pertaining to discharge standards, self-monitoring requirements, treatment methods, housekeeping practices, inventory storage, manufacturing methods, etc., that are intended to protect the waters of the state.

(2) Applicability. EC 6.550 to 6.586 shall apply to all persons within the City of Eugene, and to all Users of the Publicly Owned Treatment Works. EC 6.550 to 6.586 authorize the issuance of individual wastewater discharge permits; provide for monitoring, compliance, and enforcement activities; establish administrative review procedures; require User reporting; and provide for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(3) Administration. Except as otherwise provided herein, the City Manager shall administer, implement, and enforce the provisions of EC 6.550 to 6.586 to ensure that the City's pretreatment program complies with the objectives of EC 6.550 to 6.586, the applicable state and federal laws and regulations and the City's policy to cooperate with state and federal government. Any powers granted to or duties imposed upon the City Manager may be delegated by the City Manager to a duly authorized designee of the City Manager. The City Manager, in carrying out the provisions of EC 6.550 to 6.586 may adopt administrative rules pursuant to EC 2.019 of this code.

(4) Abbreviations. The following abbreviations, when used in EC 6.550 to 6.586, shall have the designated meanings:

BOD – Biochemical Oxygen Demand
 BMP – Best Management Practice
 BMR – Baseline Monitoring Report
 CFR – Code of Federal Regulations
 CIU – Categorical Industrial User
 DEQ – The Oregon Department of Environmental Quality.
 EPA – U.S. Environmental Protection Agency
 gpd – gallons per day
 IU – Industrial User or User
 mg/l – milligrams per liter
 MWH – Mobile Waste Hauler
 MWMC – The Metropolitan Wastewater Management Commission
 NAICS – The North American Industry Classification System
 NPDES – National Pollutant Discharge Elimination System

NSCIU – Non-Significant Categorical Industrial User
POTW – Publicly Owned Treatment Works
RCRA – Resource Conservation and Recovery Act
SIU – Significant Industrial User
SNC – Significant Noncompliance
TSS – Total Suspended Solids
U.S.C. – United States Code

(5) Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in EC 6.550 to 6.586, shall have the meanings hereinafter designated.

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

Approval Authority. The State of Oregon.

Authorized or Duly Authorized Representative of the User.

(a) If the User is a corporation:

1. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
2. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for 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: a general partner or proprietor, respectively.

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

(d) The individuals described in paragraphs (a) through (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 written authorization is submitted to the City.

Best Management Practices or (“BMPs”). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in EC 6.552(1) and 6.552(4). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.

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

Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

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

City. The City of Eugene.

City Manager. The City Manager of the City as defined by the City's Charter, or the City Manager's designee.

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

Control Authority. The City.

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

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

Domestic User (“Residential User”). Any person who contributes, causes, or allows the contribution of wastewater into the POTW that is of a similar volume and/or chemical make-up to that of a residential dwelling unit.

Environmental Protection Agency (“EPA”). The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

Existing Source. Any source of discharge that is not a “New Source.”

Food Service Establishment. A non-domestic discharger where preparation, manufacturing, or processing of food and/or beverage occurs and include, but are not limited to restaurants, cafes, fast food outlets, pizza outlets, delicatessens, sandwich shops, coffee shops, schools, nursing homes and other facilities that prepare, service, or otherwise make foodstuff available for consumption.

General Discharge Authorization. A written authorization issued for the discharge of wastewater from a User into the POTW.

Grab Sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

Gray water. Gray water means shower and bath wastewater, bathroom sink wastewater, kitchen sink wastewater and laundry wastewater. Gray water does not mean toilet or garbage wastes, or wastewater contaminated by soiled diapers.

Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source, including a Mobile Waste Hauler, regulated under section 307 (b), (c), or (d) of the Act.

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

Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Local Limit. Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

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.

Mobile Waste Hauler. A person who, by contract or otherwise, collects wastewater, including domestic waste and septage waste, for transportation to and discharge into any portion of the POTW.

New Source.

(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 that will be applicable to such source if such Standards are thereafter 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 totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(b) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of (a)2. or (a)3. above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a New Source as defined under this definition has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous onsite 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 or equipment; or
2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

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

Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

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

Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor). Pollution is the introduction of pollutants which alters the chemical, physical, biological or radiological state of water.

Pollution Prevention. Source reduction and other practices that reduce or eliminate the creation of pollutants through:

- (a) Increased efficiency in the use of raw materials, energy, water, or other resources; or
- (b) Protection of natural resources by conservation.

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

Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

Pretreatment Standards or Standards. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of EC 6.550 to 6.586.

Publicly Owned Treatment Works or POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

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

Sewage. Human excrement and gray water, including, but not limited to wastes from bathrooms, laundries, and kitchens.

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

SIC Number. A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

Significant. Except as otherwise defined in EC 6.550 to 6.586, significant is defined on a case-by-case basis. If a person subject to EC 6.550 to 6.586 is concerned about whether an act, omission, or change is “significant,” they are advised to immediately contact the office of the City’s pretreatment program for clarification.

Significant Industrial User (SIU).

(a) An Industrial User subject to categorical Pretreatment Standards; or

(b) An Industrial User that:

1. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding domestic waste, noncontact cooling and boiler blowdown wastewater);
2. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
3. Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any Pretreatment Standard or Requirement.

(c) The City may determine that an Industrial User subject to 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 finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;

2. The Industrial User annually submits the certification statement required in Section 8.14 B, together with any additional information necessary to support the certification statement; and

3. The Industrial User never discharges any untreated concentrated wastewater.

(d) Upon a finding that a User meeting the criteria in subsection(b) has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

Significant Noncompliance. A SIU (or an IU which violates(c), (d) or (h) below) is in significant noncompliance if its violation meets one or more of the following criteria:

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

(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 Standards or Requirement including instantaneous Limits 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 effluent limit (daily maximum, long-term average, instantaneous limit, or narrative standard) that the City Manager 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 Manager's exercise of its emergency authority to halt or prevent such a discharge;

(e) 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;

(f) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, ninety (90) day compliance reports, 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 Manager determines will adversely affect the operation or implementation of the local Pretreatment program.

Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in EC 6.552(1) or Local Limits as described in 6.552(4). A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

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

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

User or Industrial User. A source of indirect discharge into a POTW. The source shall not include a Domestic User.

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

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

6.552 Industrial Pretreatment Program — Regulations.

(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 harm the health of the City's employees working in and around the POTW, interfere with the operation or performance of the POTW, contaminate the resulting biosolids, or will cause Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

(b) Specific Prohibitions.

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

- a. Any liquids, solids or gases which by reason of their nature or quantity are, or may be sufficient either alone or in combination with other pollutants to create a fire or explosive hazard in the POTW, or be injurious in any other way to the POTW or its operations, including, but not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides or wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21 or otherwise specified by the City Manager. At no time shall two successive readings on an explosion hazard meter, at the point of discharge (or at any point in the POTW) be more than five (5) percent nor shall any single reading be over ten percent of the lower explosive limit of the meter;
- b. Wastewater having a pH less than 5.5 or more than 12.0, or otherwise having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.;
- c. Solid or viscous substances which, either alone or in combination with other pollutants, may cause obstruction to the flow in a sewer or other interference with the operation of the POTW such as, but not limited to: grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains or hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;
- d. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW;
- e. Wastewater having a temperature greater than 150 degrees F (65 degrees C), or which will inhibit biological activity in the treatment plant or stimulate excessive biological activity in the POTW, resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);
- f. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;
- g. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

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- h. Trucked or hauled pollutants, except at discharge points designated by the City Manager in accordance with EC 6.554(4);
 - i. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other pollutants, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
 - j. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit;
 - k. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable local limits and State or Federal regulations;
 - l. Any unpolluted water including, but not limited to, storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the City Manager;
 - m. Medical Wastes, except as specifically authorized by the City Manager in an individual wastewater discharge permit
 - n. Any trucked or hauled domestic or non-domestic wastewater hauled and discharged into the POTW treatment plant influent having a pH less than 6.0 or greater than 9.0.
 - o. Any wastewater containing pollutants which, either alone or in combination with other pollutants, may injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, creates a toxic effect in the receiving waters of the POTW or exceed any limitation set forth in a National Categorical Pretreatment Standard or any other Pretreatment Standard.
 - p. Any pollutant which may cause the POTW's effluent or any other product of the POTW such as residues, biosolids, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.
 - q. Any pollutant which will cause the City to violate its NPDES permit.
 - r. Discontinued, expired, or unused pharmaceuticals to the sanitary sewer is prohibited. Pharmaceuticals include, but are not limited to: hazardous and non-hazardous prescriptions and over-the counter therapeutic drugs; excess medication in IV bags, syringes, or vials; chemotherapy drug wastes;

diagnostic agents; nutraceuticals; and antibiotics. Or any hazardous waste pharmaceutical as defined in 40 CFR 266.500.

2. Users that use continuous monitoring techniques for pH shall meet the requirements specified in EC 6.552(1)(b)(2); except that temporary excursion above the upper and lower pH values are allowed as long as:

- a. The total time during which values for pH are outside the prohibition or limitation value does not exceed eight (8) hours in any calendar month;
- b. No individual excursion exceeds sixty (60) minutes in length; and
- c. No excursion results in or contributes to violations of the prohibitions in EC 6.552.
- d. In no case shall the discharge have a pH lower than 5.0 except as authorized by the City Manager.
- e. When the City Manager determines that a sixty (60) minute excursion by any User will or may result in a violation, the City Manager may establish a shorter allowable duration for that User.

3. Pollutants, substances, or wastewater prohibited by EC 6.552 shall not be processed or stored in such a manner that they could be discharged to the POTW.

(2) National Categorical Pretreatment Standards. Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471. These categorical standards shall be met by all industrial users of the regulated industrial categories.

- (a) Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City Manager may impose equivalent concentration or mass limits.
- (b) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the City Manager may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
- (c) When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the City Manager shall impose an alternate limit in accordance with 40 CFR 403.6(e).
- (d) When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the City convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the City Manager. The City may establish equivalent mass limits only if the

Industrial User meets all the conditions set forth in Sections (2)(d)1.a. through (2)(d)1.e. below.

1. To be eligible for equivalent mass limits, the Industrial User must:
 - a. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;
 - b. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
 - c. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
 - d. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and
 - e. Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.
2. An Industrial User subject to equivalent mass limits must:
 - a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - b. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
 - c. Continue to record the facility's production rates and notify the City Manager whenever production rates are expected to vary by more than twenty (20) percent from its baseline production rates determined in EC 6.552(2)(d)1.c, above. Upon notification of a revised production rate, the City Manager will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
 - d. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to EC 6.552(2)(d)1.a., so long as it discharges under an equivalent mass limit.

3. When developing equivalent mass limits, the City Manager:

- a. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;
- b. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
- c. May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to EC 6.552(6). The Industrial User must also be in compliance with EC 6.582(3) regarding the prohibition of bypass.
- d. The City Manager may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the City Manager.
- (e) Once included in its permit, the Industrial User must comply with the equivalent limitations developed in EC 6.552 in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.
- (f) 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.
- (g) Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the City Manager within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the City Manager of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

(3) State Pretreatment Standards. State requirements and limitations on discharges to the POTW shall be met by all users which are subject to such standards in any instance in which they are more stringent than the federal requirements and limitations or those in EC 6.550 to 6.586.

(4) Local Limits.

- (a) The City Manager is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).
- (b) The pollutant limits are established to protect against Pass Through and Interference. No SIU shall discharge wastewater containing those pollutants into the POTW, in excess of limitations specified by conditions of its discharge permit or published by the City Manager.
- (c) The City Manager shall publish and revise from time to time rules that designate and establish limits for Restricted Substances. At all times these rules shall cover and be at least as strict as those for pollutants as defined in State or federal regulations.
- (d) The limits apply at the point where the wastewater is discharged into the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The City Manager may impose mass limitations in addition to the concentration-based limitations above.
- (e) Individual limits for specific Users may be established on a case-by-case basis for compounds not specifically listed in published local limits.
- (f) The City Manager may develop BMPs, by administrative order or in individual wastewater discharge permits, to implement Local Limits and the requirements of EC 6.552(1).

(5) City's Right of Revision. The City Manager reserves the right to establish, by administrative order or in individual wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of EC 6.550 to 6.586.

(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 Manager may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

(7) Pretreatment Standards – Best Management Practices.

- (a) The City Manager may develop BMPs, or require a User to develop BMPs, to implement the prohibitions of EC 6.552(1) (Prohibited Discharge Standards), and EC 6.552(4) (Local Limits). BMPs shall be considered pretreatment standards and local limits for the purposes of EC 6.550 through 6.586 and Section 307(d) of the CWA. Additionally, BMPs may be categorical pretreatment standards as established by EPA.

(b) The City Manager may develop general BMPs that are applicable to categories of Users, or geographic areas.

(8) Special Agreements.

(a) Nothing contained in EC 6.552(1) (Prohibited Discharge Standards), EC 6.552(4) (Local Limits), and EC 6.552(7) (BMPs) shall be construed to prohibit an agreement between the City and any person whereby a discharge which would otherwise be prohibited by EC 6.550 to 6.586 may be admitted to the POTW.

(b) Such an agreement may be made when, in the opinion of the City Manager, special circumstances justify such agreement, provided that no Interference or Pass Through results from the discharge, no contamination of the resulting Biosolids or recycled wastewater occurs, and no additional costs are incurred by the City without recompense by the person.

(c) Categorical pretreatment standards and federal pretreatment requirements shall not be waived by special agreement of the parties.

(9) Wastewater Discharge Survey.

(a) User may be required to provide information to the City Manager pertaining to the nature and quantity of its wastewater discharge. The City Manager may, from time to time, require that a wastewater discharge survey be completed and returned to the City.

(b) Optionally, a site survey may be conducted and the necessary information obtained for evaluation. A User may also be required to complete a short-form wastewater discharge survey at the time of the site survey.

(c) In addition to or in place of a wastewater discharge survey, the City Manager may require a User to complete an individual wastewater discharge permit application.

6.554 Industrial Pretreatment Program — Pretreatment of Wastewater.

(1) Pretreatment Facilities.

(a) Users shall provide wastewater treatment as necessary to comply with EC 6.550 to 6.586 and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in EC 6.552 within the time limitations specified by EPA, the State, or the City Manager, 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 Manager for review, and shall be acceptable to the City Manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the

User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of EC 6.550 to 6.586.

(b) A User may be required to install pretreatment facilities or make plant or process modifications or implement pollution management practices as deemed necessary by the City Manager to meet the requirements of EC 6.550 to 6.586.

(c) Whenever such facilities or modifications are required, they shall be constructed, installed, operated and maintained at the expense of the User and in a manner and within the time prescribed by the City Manager as to enable the City to comply with all applicable regulations and requirements or to protect the POTW or treatment process.

(d) Review and approval of proposed facilities or modifications by the City Manager will not in any way guarantee that these facilities or modifications will function in the required manner or attain the required results, nor shall it relieve an User of the responsibility of enlarging or otherwise modifying or replacing such facilities to accomplish the intended purpose and to meet the applicable standards, limitations and conditions of EC 6.550 to 6.586 and any individual wastewater discharge permit or Discharge Authorization issued to the User.

(e) Deadline for Compliance with Applicable Pretreatment Requirements.

1. Compliance by Existing Sources covered by Categorical Pretreatment Standards shall be within three (3) years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate Standard.

2. The City Manager shall establish a final compliance deadline date for any Existing Source not covered by Categorical Pretreatment Standards or for any categorical user when the local limits for said User are more restrictive than federal Categorical Pretreatment Standards.

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

(2) Additional Pretreatment Measures.

(a) Whenever deemed necessary, the City Manager may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of EC 6.550 to 6.586.

(b) The City Manager 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.

(3) Accidental Discharge/Slug Discharge Control Plans. Users shall provide protection against accidental or slug discharges. The City Manager shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The City Manager 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. An accidental discharge/slug discharge control plan shall be provided and maintained at the User's cost and expense. Alternatively, the City Manager may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(a) Description of discharge practices, including nonroutine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the City Manager of any accidental or Slug Discharge, as required by EC 6.564(6); and

(d) Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(e) Whenever the facility changes its operations in such a way as to change the potential for an accidental/slug discharge, the plan must be updated.

(4) Hauled Waste.

(a) Any hauled waste approved to be discharged into the POTW is subject to all the requirements in EC 6.550 to 6.586.

(b) MWHs proposing to discharge waste to the Septage Receiving Station at the POTW Treatment Plant shall apply for a Mobile Waste Hauler Discharge Permit.

(c) With the exception of recreational vehicle waste and boat sewage, persons proposing to discharge waste to the RV Disposal Station shall request and be issued a Discharge Authorization Letter prior to discharge.

(d) Persons who wish to discharge recreational vehicle waste are not required to receive discharge authorization; however, a person may be prohibited from discharging if an actual or potential discharge violates the general discharge prohibitions in EC 6.552(1)(a).

6.556 Industrial Pretreatment Program — Individual Wastewater Discharge Permits.

(1) Wastewater Analysis. When requested by the City Manager, a User must submit information on the nature and characteristics of its wastewater. The City Manager is authorized to prepare a form for this purpose and may periodically require Users to update this information in accordance with EC 6.552(9).

(2) Individual Wastewater Discharge Permit Requirement.

(a) No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the City Manager, except that a Significant Industrial User that has filed a timely application pursuant to EC 6.556 may continue to discharge for the time period specified therein.

(b) The City Manager may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of EC 6.550 to 6.586. Any User that is informed by the City Manager that it is required to obtain an individual wastewater discharge permit shall do so in accordance with EC 6.556(3).

(c) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of EC 6.550 to 6.586 and subjects the wastewater discharge permittee to the sanctions set out in EC 6.576, 6.578 and 6.580. 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) Duty to Apply.

(a) Users notified by the City Manager shall apply for an individual wastewater discharge permit ninety (90) days prior to:

1. Commencing discharge at a new connection where the discharge characteristics will meet the definition of a SIU;
2. Establishing a new point of discharge or making a substantial change in the volume or character of its discharge or process at a facility with an existing connection that will meet the definition of a SIU; or
3. Establishing a process or modifying a process that would then be subject to Categorical Pretreatment Standards;

(b) Any Users that do not meet the conditions above shall apply for an individual wastewater discharge permit within sixty (60) days of being notified by the City Manager of meeting the definition of a SIU.

(c) A User with an existing individual wastewater discharge permit proposing to establish a new point of discharge or make a substantial change in the volume or character of its discharge or process, shall apply for an amended permit and may discharge only in conformity with its existing permit until the permit is modified.

(d) A User with an existing individual wastewater discharge permit that wishes to continue operations or discharges covered under the permit after expiration shall apply for a new individual wastewater discharge permit a minimum of ninety (90) days prior the expiration of the existing permit.

(4) Individual Wastewater Discharge Permit Application Contents.

(a) All Users required to obtain an individual wastewater discharge permit must submit a permit application on forms provided by the City. The City Manager may require Users to submit all or some of the following information as part of a permit application:

1. Identifying Information.

- a. The name and address of the facility, including the name of the operator and owner;
- b. Contact information, description of activities, facilities, and plant production processes on the premises;
- c. SIC number and/or NAICS.

2. Environmental Permits. A list of any environmental control permits held by or for the facility and/or copies of any state or federal licenses issued to the applicant related to the transportation of wastewater, stormwater, or other liquid Waste.

3. Description of Operations.

- a. A description of activities, facilities, plant processes and products produced on the premises including a general description of types and quantities of all materials which are or could be discharged into the POTW;
- b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- c. Number and type of employees, hours of operation, and proposed or actual hours of operation;

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- d. Type and amount of raw materials and chemicals processed (average and maximum per day) and stored;
 - e. Water source, water use, water use distribution throughout the facility and wastewater flow rates;
 - f. 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;
 - g. Any pertinent special agreements between the applicant and the City concerning treatment of discharges, special user charges or rates, or any other information deemed necessary by the City Manager;
 - h. A list of wastewater pollutants and their characteristics actually or potentially discharged at the applicable plant site including pollutant measurements if requested by the City;
 - i. A description of activities and methods of collection, transportation, storage, and discharge of wastewater, stormwater, or other liquid waste;
 - j. A description of transportation and storage facilities;
 - k. A list of all vehicles that the applicant wishes to authorize to discharge into the POTW including vehicle make/model, vehicle license numbers, vehicle numbers, total tank capacity, and type of waste hauled;
 - l. Proof of adequate general liability and property damage insurance;
- 4. Time and duration of discharges;
 - 5. The location for monitoring all wastes covered by the permit;
 - 6. A description of spill prevention measures or plans which are currently in place;
 - 7. Flow Measurement. Information providing a description of flow monitoring and wastewater sampling equipment to be installed and methods to be used.
 - 8. Any other information as may be deemed necessary by the City Manager to evaluate the permit application.
- (b) Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

(5) Application Signatories and Certifications.

- (a) All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in EC 6.566(1).
- (b) If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the City Manager 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 Manager pursuant to subsection (3) and (4) of the definition of “Significant Industrial User” at EC 6.550(5) must annually submit the signed certification statement in EC 6.556(14)(b).

(6) Individual Wastewater Discharge Permit Decisions. The City Manager 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 City Manager will determine whether to issue an individual wastewater discharge permit. The City Manager may deny any application for an individual wastewater discharge permit.

6.560 Industrial Pretreatment Program — Individual Wastewater Discharge Permit Issuance.

(1) Individual Wastewater Discharge Permit Duration. An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the City Manager. Each individual wastewater discharge permit will indicate a specific date upon which it will expire.

(2) Individual Wastewater Discharge Permit Contents. An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the City Manager to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant’s effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(a) Individual wastewater discharge permits must contain:

- 1. A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
- 2. A statement that the wastewater discharge permit is nontransferable without prior notification to the City Manager, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

3. Effluent limits, including BMPs, based on applicable Pretreatment Standards;
 4. Specifications for monitoring and sampling programs which may include monitoring and sampling locations, frequency of monitoring, sampling, number and types of tests, standards for tests and reporting schedules based on Federal, State and local law;
 5. Requirements for submitting technical reports, discharge reports, licenses, manifests, or plans;
 6. Requirements for maintaining and retaining records required by a wastewater discharge permit, and affording the City Manager access thereto;
 7. Requirements for notifying the City two (2) days after a permit holder that is subject to equivalent mass or concentration limits calculated from a production-based standard has a reasonable basis to know that the production level will significantly change within the next calendar month, and that without such notification, permit holder must meet the mass or concentration limits in its permit that were based on the original estimate of the long term average flow rate;
 8. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
 9. Requirements to control Slug Discharge, if determined by the City Manager to be necessary.
 10. Requirements for immediately notifying the City of slug load discharges or a change in potential for spill or slug discharges;
 11. Requirement to report a bypass or upset of a pretreatment facility;
 12. Requirement for notifying the City Manager where self- monitoring results indicate noncompliance;
 13. Requirement for the SIU who reports noncompliance to repeat the sampling and analysis and submit analysis to the City Manager within thirty (30) days after becoming aware of the violation.
- (b) Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:
1. Payment of applicable fees;
 2. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

3. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
4. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
5. Requirements to limit, control, or reduce the concentrations of pollutant discharges through the use of BMPs;
6. The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;
7. Requirements for installation and maintenance of pretreatment, inspection, or monitoring and sampling facilities and equipment, including flow measurement devices;
8. Compliance schedules;
9. Requirements for notifying the City of any new discharge of a restricted substance or any substantial change in the volume or character of the wastewater or any restricted substances being discharged;
10. Requirements that the permit holder notify the City of any disposal of wastewater in excess of five-hundred (500) gallons to any person in any period of twelve (12) consecutive calendar months;
11. Authorized points of discharge, regulated processes or waste streams;
12. Requirement for a written report within five (5) days of notification of an effluent limit violation;
13. Requirement for the SIU to establish and maintain a Sampling and Analysis Plan;
14. Requirement for adequate general liability and property damage insurance;
15. Requirement to apply in writing for permission to discharge any hauled non-domestic wastewater;
16. Requirement to provide the City advanced notice of any non-routine or hauled non-domestic wastewater discharges, and a statement on the authority for the City Manager to prohibit or condition such discharges;

17. Requirement that a hauled waste discharge site have any spilled material removed or cleaned up after discharge; or

18. A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual wastewater discharge permit; and

19. Other conditions as deemed appropriate by the City Manager to ensure compliance with EC 6.550 to 6.586, and State and Federal laws, rules, and regulations.

(c) The City Manager may, at its discretion, issue a certification in lieu of a control mechanism for NSCIUs and NDCIUs.

(3) Permit Modification. The City Manager may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

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

(b) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;

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

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

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

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

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

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

(i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with (4) below.

(4) Individual Wastewater Discharge Permit Transfer.

Individual wastewater discharge permits may be assigned or transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the City Manager and the City Manager approves the individual wastewater discharge permit transfer. Failure to provide advance notice of a transfer renders the individual wastewater discharge permit voidable as of the date of facility transfer. The notice to the City Manager must include a written certification by the new owner or operator which:

- (a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (b) Identifies the specific date on which the transfer is to occur; and
- (c) Assumes full responsibility for complying with the existing individual wastewater discharge permit.

(5) Individual Wastewater Discharge Permit Revocation.

(a) The City Manager may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

1. Failure to notify the City Manager of significant changes to the wastewater prior to the changed discharge;
2. Failure to provide prior notification to the City Manager of changed conditions pursuant to EC 6.566(5);
3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
4. Falsifying self-monitoring reports and certification statements;
5. Tampering with monitoring equipment;
6. Refusing to allow the City Manager timely access to the facility premises and records;
7. Failure to meet discharge 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. If the City Manager has to invoke its emergency provision as cited in EC 6.576(8); or

14. Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or EC 6.550 to 6.586.

(b) Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a User are void upon the issuance of a new individual wastewater discharge permit to that User.

(c) The industrial user whose discharge permit is revoked pursuant to this subsection (5) above shall be prohibited from applying for a new discharge permit for a period of two years from the date of final decision. The prohibition may be waived if the City Manager determines that the issuance of a new discharge permit is necessary to avert an imminent or existing danger to the health or welfare of persons, property, or the environment.

(d) The filing of an appeal pursuant to EC 6.562 shall stay enforcement of the action by the City Manager under this subsection (5) above pending final administrative action on the appeal. This provision supplements and does not restrict other provisions of this code, laws or regulations authorizing termination of service for delinquency in payment of fees or charges.

(6) Individual Wastewater Discharge Permit Reissuance. A User with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with EC 6.556(4), a minimum of ninety (90) days prior to the expiration of the User's existing individual wastewater discharge permit. Discharge limits or rules in effect and incorporated into any permit shall remain in effect for that permit until it expires, except as modified pursuant to EC 6.560(3).

(7) Continuation of Expired Permits. Individual wastewater discharge permits issued for a duration of less than five (5) years, may be administratively extended up to five (5) years from the effective date of the permit, but in no case shall an individual wastewater discharge permit be administratively extended past the maximum duration established in EC 6.560(1). An expired permit shall continue to be in effect until a final action has been taken on the renewal application to issue or deny the permit if:

(a) The permit holder has submitted a complete permit application at least ninety (90) days prior to the expiration of its permit; and

(b) The failure to take Final Action is not due to any act or failure to act on the part of the permit holder.

6.562 Industrial Pretreatment Program — Reconsideration and Appeals

(1) Reconsideration by Industrial Pretreatment Program. Any person may request a modification to a decision by the City Manager related to the provisions of EC 6.550 to 6.586 via an administrative review with the City. The request for modification must be submitted within fifteen (15) days of receipt of notification of a decision or action. If the request for modification is denied by Industrial Pretreatment Program staff, the requestor may file for Reconsideration by City Manager per subsection (2) below.

(2) Reconsideration by City Manager. Any person aggrieved by the final determination of the Industrial Pretreatment Program staff or aggrieved of any other decision or action not subject to Industrial Pretreatment Program administrative review, other than judicial enforcement actions, may file a written request with the City Manager for reconsideration thereof within fifteen (15) days of receipt of notification of such decision or action. The notice of appeal shall be on a form provided by the City Manager and shall set forth in reasonable detail the decision or action appealed from and the facts and arguments supporting the appellant's request for reconsideration. The City Manager may establish such procedures as may be deemed necessary or proper to conduct the reconsideration process. The filing of a request for reconsideration shall be a condition precedent to the right to appeal to the MWMC pursuant to subsection (3) below.

(3) Appeal to MWMC.

(a) Any person aggrieved by the final determination of the City Manager may appeal such determination to the MWMC. Written notification of such appeal shall be filed with the MWMC and City Manager, together with the payment of a fee of \$50.00, within ten (10) days after receipt of the final determination of the City Manager. The notice of appeal shall be on a form provided by the MWMC and shall set forth in reasonable detail the decision or action appealed from and the facts and arguments supporting the appellant's request for reversal or modification of the City Manager's determination.

(b) The MWMC shall conduct a hearing on the appeal according to procedures to be established by the MWMC pursuant to paragraph twelve (12) of the Intergovernmental Agreement. The MWMC shall submit a copy of its findings and recommendations regarding the appeal to the City Council within ten (10) days after the hearing. The City Council may hold a hearing on the recommendations. If the City Council decides to hold a hearing, it will do so within sixty (60) days after their filing.

(4) Settlement of Administrative Penalty Assessment. Upon receipt of a Notice of Administrative penalty Assessment, a User may request a conference with the City Manager or designee. The City Manager may compromise or settle any unpaid administrative penalty assessed under EC 6.550 to 6.586. A request under this subsection shall not act as a stay, or otherwise affect the filing or processing of an appeal under subsection (3) above.

EC 6.564 Industrial Pretreatment Program — General Discharge Authorization.**(1) Sector Control Programs.**

- (a) The City Manager may establish sector control programs for, and issue discharge authorization letters to User to control specific pollutants as necessary to meet the objectives and requirements of EC 6.550 to 6.586.
- (b) The City Manager may require a User to provide information through a wastewater discharge survey, wastewater discharge permit application, or other means to aid in the classification of a User.

(2) Discharge Authorization Letter Conditions.

- (a) Users subject to sector control program requirements will be issued a Discharge Authorization Letter. Letters shall contain, where applicable, the following conditions:

- 1. A statement of general requirements containing the applicable sector control program requirements to which the User is subject;
- 2. Issuance date and effective date of the discharge authorization;
- 3. Requirements for the installation and maintenance of pretreatment facilities or devices, if applicable;
- 4. Applicable effluent limits and BMPs;
- 5. Requirements for submitting discharge reports, BMP compliance reports, technical reports, manifests, maintenance records, or plans;
- 6. Requirements for maintaining and retaining records required by a Discharge Authorization Letter.

- (3) Discharge Authorization Letter Duration. Discharge authorizations shall be in effect indefinitely unless it is cancelled by the City Manager, a User fails to meet the requirements of a discharge authorization letter, or the authorization letter contains an end date or end discharge date.

6.566 Industrial Pretreatment Program — Reporting Requirements.**(1) Baseline Monitoring Reports.**

- (a) Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the City Manager a

report which contains the information listed in subsection (1)(b). A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

1. The name and address of the facility including the name of the operator and owners;
2. A list of any environmental control permits held by or for the facility;
3. A brief description of the nature, average rate of production, and SIC number of the operation(s) carried out by such User. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;
4. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
 - a. Regulated process streams; and
 - b. Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e). (See subsection (b)6.d. below.)
5. The City Manager may allow for the verifiable estimates of these flows where it is justified by cost or feasibility considerations.
6. Measurement of pollutants.
 - a. Pretreatment Standards applicable to each regulated process;
 - b. The results of sampling and analysis identifying the nature and concentration (or mass, where required by the Standard or City Manager) of regulated pollutants in the discharge from each regulated process. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the City Manager or the applicable Standards to determine compliance with the Standard;
 - c. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection 6.
 - d. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process

if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the City Manager;

e. Sampling and analysis shall be performed in accordance with subsections (10) and (11);

f. The City Manager 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;

g. 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.

7. Compliance Certification. A statement, reviewed by the User's Authorized Representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

8. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to EC 6.566 must meet the requirements set out in subsection (2) below.

9. The conditions established in EC 6.566(2) shall apply to any schedule required by subsection (1)(b)8. above.

10. Signature and Report Certification. All baseline monitoring reports must be certified in accordance with subsection (14)(a) below and signed by an Authorized Representative.

(2) Compliance Schedule. Should any schedule of compliance be established in accordance with the requirements of EC 6.550 to 6.586, the following conditions shall apply to such schedule:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment 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 Manager.

(3) Reports on Compliance with Categorical Pretreatment Standard Deadline. Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User, including all existing sources, subject to such Pretreatment Standards and Requirements shall submit to the City Manager a report containing the information described in subsections (1)(b)4. through (1)(b)6. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in EC 6.552(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 subsection (14) below. All sampling will be done in conformance with subsection (11).

(4) Periodic Compliance Reports.

(a) All SIUs must, at a frequency determined by the City Manager submit no less than twice per year, in June and December 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 Manager or the Pretreatment Standard necessary to determine the compliance status of the SIU.

1. In support of the information submitted with a periodic compliance report, the City Manager may also require supporting documents such as, but not limited to, calibration records, instrumentation maintenance records, and off-site disposal methods and/or records.

2. The City Manager may, in its discretion, require NSCIUs and NDCIUs to comply with EC 6.566.

(b) Hauled Waste Reports.

1. All MWHs subject to the requirements of a Mobile Waste Hauler Permit must, at a frequency determined by the City Manager, submit a hauled waste manifest for each load discharged that includes information on the origination, collection, source, and type of wastes discharged along with any other information necessary to track the source, collection, and discharge of hauled waste into the POTW.
2. Any MWH may be required to provide a waste analysis of any loads for any pollutants necessary to determine compliance with EC 6.550 to 6.586.
3. In addition to hauled waste manifests, MWHs may be required to submit information showing that the hauler is authorized to haul waste in the state, that the hauler's vehicles are in proper working order, and that the hauler has a minimum amount of liability insurance as deemed necessary by the City Manager.

(c) BMP Reports. All IUs required to implement BMPs must, at a frequency determined by the City Manager, submit documentation necessary to determine compliance with the BMP. The documentation may include, but is not limited to, calibration records, instrumentation maintenance records, off- site disposal methods and/or records, and wastewater treatment records.

(d) Sector Control Program Reports. All Users required to keep and maintain records in accordance discharge authorization requirements may be required to submit those records to the City Manager as necessary to evaluate compliance with Discharge Authorization Letter requirements.

(e) If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the City Manager, using the procedures prescribed in Section 8.11 of this Ordinance, the results of this monitoring shall be included in the report.

(5) Reports of Changed Conditions. Each IU must notify the City Manager of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change unless a permit application is required to be submitted in which case, the IU must notify the City Manager ninety (90) days before the change.

(a) The City Manager may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under EC 6.560(2).

(b) The City Manager may issue an individual wastewater discharge permit under EC 6.560(5) or modify an existing discharge permit under EC 6.560(3) 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 discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, on becoming aware of the circumstances, the User shall immediately telephone and notify the City Manager of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

(b) Within five (5) days following such discharge, the User shall, unless waived by the City Manager, 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 might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to EC 6.550 to 6.586.

(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 a discharge described in (6)(a) above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

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

(7) Reports from Unpermitted Users. All Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the City Manager as the City Manager may require.

(8) Notice of Violation/Repeat Sampling and Reporting. If sampling performed by a User indicates a violation, the User must notify the City Manager within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City Manager within thirty (30) days after becoming aware of the violation. The User must submit a certified report with the laboratory report or field data showing the violation and a written narrative detailing the cause of the violation and what the User will do or has done to prevent the violation from happening again within five (5) days after notification. Resampling by the User is not required if the City performs sampling at the User's facility at least once a month, or if the City performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the User.

(9) Notification of the Discharge of Hazardous Waste and Reporting Requirements.

(a) Any User who commences the discharge of hazardous waste shall notify the City Manager, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if

otherwise disposed of, would be a hazardous waste under 40 CFR Part 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 wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream 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 subsection (9) need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under subsection (5) above. The notification requirement in this subsection (9) does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards in baseline monitoring, ninety (90) day and periodic compliance reports.

(b) Users are exempt from the requirements of subsection (9)(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 nonacute 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 Manager, the EPA Regional Waste Management Waste Division Director, and State 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 subsection (9), 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 subsection (9) does not create a right to discharge any substance not otherwise permitted to be discharged by EC 6.550 to 6.586, a permit issued thereunder, 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 Manager or other parties approved by EPA.

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

(a) Except as indicated in (b) and (c) 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 Manager. 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: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. 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.

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

(c) Samples for pH may be obtained by using grab collection techniques or continuous monitoring techniques.

1. The method required is at the discretion of the City Manager.

2. For continuous monitoring techniques, the City Manager may specify the period and conditions of a pH excursion, including, but not limited to, equipment maintenance and calibration.

(c) For sampling required in support of baseline monitoring and 90-day compliance reports required in EC 6.566, 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 Manager may authorize a lower minimum. For the reports required by EC 6.566(3), the User is required to collect the number of grab samples necessary to assess and assure compliance by 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 or on the date of receipt of the report by the City Manager.

(13) Recordkeeping. Users subject to the reporting requirements of EC 6.550 to 6.586 shall retain, and make available for inspection and copying, all records of information obtained pursuant to any

monitoring activities required by EC 6.550 to 6.586, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with BMPs. 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 and shall be made available for physical or electronic inspection and copying by the City Manager, State, or EPA. This retention 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 Manager, State, or EPA.

(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 EC 6.556(5); Users submitting baseline monitoring reports under subsection (1) above; Users submitting reports on compliance with the categorical Pretreatment Standard deadlines; Users submitting 90-Day compliance reports required by EC 6.566(3), and Users submitting an initial request to forego sampling of a pollutant. The following certification statement must be signed by an Authorized Representative as defined in EC 6.550(5):

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

(b) Annual Certification for Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User by the City Manager must annually submit the following certification statement signed in accordance with the definition of “Authorized or Duly Authorized Representative of the User” in EC 6.550(4). This certification must accompany an alternative report required by the City Manager:

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

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in

subsections (3) and (4) of the definition of “Significant Industrial User” at EC 6.550(5);

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

(c) Hauled Waste Manifests. For MWHs subject to discharge reporting requirements in Hauled Waste Permits, the following certification Statement must be signed by a driver/operator of a hauled waste vehicle authorized to discharge at the Septage Receiving Station:

I certify under penalty of law that the information listed in this manifest was prepared by me and 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. I further certify that all discharges covered by this manifest are not hazardous as defined at 40 CFR Part 261. I further certify that all discharges made to the POTW are being made in accordance and in compliance with the requirements specified in Sections ____ to ____ of ____ City Code and the Mobile Waste Hauler Permit.

(15) Electronic Reporting. Users that submit electronic documents to the City to satisfy the requirements of EC 6.566 must ensure all documents comply with the CROMERR requirements, as set out in EC 6.552.

6.568 Industrial Pretreatment Program — Compliance Monitoring.

(1) Right of Entry: Inspection and Sampling. The City Manager shall have the right to enter the premises of any User as often as deemed necessary (SIUs should expect to be inspected at a minimum once annually) to determine whether the User is complying with all requirements of EC 6.550 to 6.586 and any individual wastewater discharge permit or order issued hereunder. Users shall allow authorized representatives of the City, State and EPA ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (a) Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the representatives shall be permitted to enter without delay for the purposes of performing specific responsibilities. Unreasonable delays in allowing representatives from the City, State, or EPA access to the User's premises shall be a violation of EC 6.550 to 6.586.
- (b) Entry may not be conditioned upon any City, State, or EPA representative signing any type of confirmation, release, consent, acknowledgement, or other type of agreement.
- (c) The City, State and EPA shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling, observation, inspection, compliance monitoring and/or metering of the User's operations.
- (d) The City, State and EPA 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 at the manufacturer's recommendation to ensure their accuracy.
- (e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the City, State and EPA and shall not be replaced. The costs of clearing such access shall be borne by the User.
- (f) Unreasonable delays in allowing the City, State and EPA access to the User's premises shall be a violation of EC 6.550 to 6.586.

(2) Monitoring Facilities.

- (a) The City Manager may require the User to install and maintain at its expense a suitable sampling location(s) and/or monitoring equipment, to facilitate representative observation, sampling and measurement of wastewater being discharged.
- (b) If feasible, such sampling location shall be located where it is accessible from a public road or street and shall be arranged so that flow measuring and sampling equipment and a shutoff gate or a screen may be conveniently installed by the City. If infeasible, the User shall receive prior approval for deviation from this requirement.
- (c) It shall be constructed in accordance with plans and at a location approved by the City Manager. The approval of such plans shall in no way relieve the User from the responsibility of modifying such sampling location(s) as necessary to ensure representative observation, sampling and measurement.
- (d) The sampling location(s) and monitoring equipment required in this subsection (2) shall be maintained in proper working order and kept safe and accessible at all times.

(3) Search Warrants. If the City Manager has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of EC 6.550 to 6.586, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with EC 6.550 to 6.586 or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the City Manager may seek issuance of a search warrant from the Lane County Circuit Court of Oregon.

6.570 Industrial Pretreatment Program — Confidential Information. 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 and other governmental agencies without restriction, unless the User specifically requests in writing, and is able to demonstrate to the satisfaction of the City Manager, that such records are exempt from disclosure under the Oregon Public Records Law ORS 192.410, et seq. All such information and data shall be available at least to the extent necessary to permit the City Manager to ensure compliance with EC 6.550 to 6.586 as well as the requirements of 40 CFR section 2.302. Any such request must be asserted at the time of submission or collection 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. However, all information and data reported shall be available for use by the City, state or any state agency or federal agency in judicial or 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.

6.572 Publication of Users in Significant Noncompliance. The City Manager shall publish annually, in a newspaper or other media of general circulation that provides meaningful public notice within the City metropolitan area, 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.

6.574 Industrial Pretreatment Program — Cross Media Electronic Reporting (Cromerr).

(1) EC 6.574 serves as the framework establishing electronic reporting in compliance with 40 CFR Part 403 and 40 CFR part 3.

(2) Definitions to establish the framework for electronic reporting. For the purposes of EC 6.574, the following definitions apply:

Copy of Record. A true and correct copy of an electronic document received by an electronic document receiving system, which copy can be viewed in a human-readable

format that clearly and accurately associates all the information provided in the electronic document with descriptions or labeling of the information. A copy of record includes:

- (a) All electronic signatures contained in or logically associated with that document;
- (b) The date and time of receipt; and
- (b) Any other information used to record the meaning of the document or the circumstances of its receipt.

Electronic Document. Any information in digital form that is conveyed to an agency or third-party, where “information” may include data, text, sounds, codes, computer programs, software, or databases. “Data,” in this context, refers to a delimited set of data elements, each of which consists of a content or value together with an understanding of what the content or value means; where the electronic document includes data, this understanding of what the data element content or value means must be explicitly included in the electronic document itself or else be readily available to the electronic document recipient.

Electronic Document Receiving System. Any set of apparatus, procedures, software, records, or documentation used to receive electronic documents.

Electronic Signature Agreement. An agreement signed by an individual with respect to an electronic signature device that the individual will use to create his or her electronic signatures requiring such individual to protect the electronic signature device from compromise; to promptly report to the agency or agencies relying on the electronic signatures created any evidence discovered that the device has been compromised; and to be held as legally bound, obligated, or responsible by the electronic signatures created as by a handwritten signature.

Electronic Signature Device. A code or other mechanism that is used to create electronic signatures. Where the device is used to create an individual's electronic signature, then the code or mechanism must be unique to that individual at the time the signature is created and they must be uniquely entitled to use it. The device is compromised if the code or mechanism is available for use by any other person.

Electronic Signature. Any information in digital form that is included in or logically associated with an electronic document for the purpose of expressing the same meaning and intention as would a handwritten signature if affixed to an equivalent paper document with the same reference to the same content. The electronic document bears or has on it an electronic signature where it includes or has logically associated with it such information.

Handwritten Signature. The scripted name or legal mark of an individual, handwritten by that individual with a marking-or writing-instrument such as a pen or stylus and executed or adopted with the present intention to authenticate a writing in a permanent form, where “a writing” means any intentional recording of words in a visual form, whether in the form of handwriting, printing, typewriting, or any other tangible form. The physical instance of the

scripted name or mark so created constitutes the handwritten signature. The scripted name or legal mark, while conventionally applied to paper, may also be applied to other media.

Valid Electronic Signature. An electronic signature on an electronic document that has been created with an electronic signature device that the identified signatory is uniquely entitled to use for signing that document, where this device has not been compromised, and where the signatory is an individual who is authorized to sign the document by virtue of his or her legal status and/or his or her relationship to the entity on whose behalf the signature is executed.

(3) **Reporting Requirements for Electronic Submissions.** Beginning on [FILL IN the effective date of this Ordinance], and if authorized by the City, reports and notifications required by SIUs under EC 6.550 to 6.586 shall be electronically submitted to the City. All electronic documents shall be submitted by the designated electronic document receiving systems and verified with a valid electronic signature to develop a copy of record.

(4) **Reporting Requirements.**

(a) A person is subject to any applicable federal civil, criminal, or other penalties or remedies for failure to comply with a reporting requirement if the person submits an electronic document to the City and fails to comply with the applicable provisions for electronic reporting.

(b) Where an electronic document submitted to the City bears an electronic signature, the electronic signature legally binds, obligates, and makes the signatory responsible, to the same extent as the signatory's handwritten signature would on a paper document submitted to the City.

(c) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.

(d) Nothing in EC 6.574 limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

(5) **IU Reporting and Notification Requirements.** Non-SIU Users who are not subject to mandatory electronic reporting may choose to provide reports and notifications electronically, and may do so only by in accordance with the requirements set out in EC 6.574.

6.576 Industrial Pretreatment Program — Administrative Compliance Remedies.

(1) **Warning Letter.** When the City Manager finds a User has violated any provision of EC 6.550 to 6.586, a wastewater discharge permit, General Discharge Authorization, Discharge Authorization Letter, or any other Pretreatment Standard or Requirement, the City may issue a written Warning Letter to the User. The Warning Letter shall specify the violations(s) and consequences of

continued noncompliance. For violations of a Discharge Authorization Letter, the Warning Letter may contain corrective action(s) and a schedule for completing the corrective action(s).

(2) Notification of Violation. When the City Manager finds that a User has violated, or continues to violate, any provision of EC 6.550 to 6.586, an individual wastewater discharge permit, General Discharge Authorization, Discharge Authorization Letter or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may serve upon that User a written Notice of Violation. The Notice of Violation shall specify the violation and may require a written response from the violator detailing the actions that will be taken to resolve the violation(s) and/or corrective actions and a schedule for completing the corrective action(s). A Notice of Violation may also include a Notice of Administrative Penalty Assessment. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in EC 6.574 shall limit the authority of the City Manager to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(3) Administrative Compliance Orders. When the City Manager finds that a User has violated, or continues to violate, any provision of EC 6.550 to 6.586, an individual wastewater discharge permit, General Discharge Authorization, Discharge Authorization Letter, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may issue a written Administrative Compliance Order to the User directing that the User come into compliance within a specified time. The Order shall specify the violation(s) and require compliance measures. The Order may also include a Notice of Administrative Penalty Assessment for the violation. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

(4) Stipulated Enforcement Orders. The City Manager may enter into a stipulated enforcement order for any violation. The Stipulated Enforcement Order shall state findings, direct the User to come into compliance within a specified time and may contain other requirements to address the noncompliance, including but not limited to interim pretreatment limits and compliance goals, and additional self-monitoring and management designed to minimize the amount of pollutants discharged to the POTW.

(5) Service. Enforcement actions shall either be served by personal service or shall be sent by registered or certified mail and by first class mail. Any such notice served by mail shall be deemed received for purposes of any time computations hereunder three (3) days after the date mailed if to

an address within this state, and seven (7) days after the date mailed if to an address outside of this state.

(6) Cease and Desist Orders. When the City Manager finds that a User has violated, or continues to violate, any provision of EC 6.550 to 6.586, an individual wastewater discharge permit, General Requirement, Discharge Authorization or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the City Manager may issue an order to the User directing it to cease and desist all such violations and directing the User to:

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

(7) Administrative Penalties or Fines.

- (a) When the City Manager finds that a User has violated, or continues to violate, any provision of EC 6.550 to 6.586, an individual wastewater discharge permit, General Requirements, Discharge Authorization, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City Manager may fine such User in an amount not to exceed \$25,000. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- (b) As a part of a Notice of Violation, Administrative Compliance Order, or separately, the City Manager may issue a Notice of Administrative Penalty Assessment pursuant to EC 6.550 to 6.586 for any violation. The amount of the administrative penalty shall be determined through the use of the Enforcement Response Plan.
- (c) Collection of the penalties determined by the City Manager may be in the manner provided in this code for the collection of sewer user charges, in accordance with any other provisions of this code, or in any other manner provided by law.
- (d) If the User objects to the assessment of any penalty provided by EC 6.576, the User shall have all the rights and shall proceed in compliance with the provisions of EC 6.562.
- (e) Any person who violates EC 6.550 to 6.586 or a condition of a discharge permit, as a result of which the City performs or causes to be performed preventative or corrective work or which results in damage to the POTW shall be liable to the City for such damage and the cost of such preventive or corrective work, additional treatment and for any penalties, including withholding of any grant money, levied against the City for violation of State or federal permits resulting from said violation. The City may collect such charges in the

manner provided in this code for the collection of sewer user charges, in accordance with any other provisions of this code, or in any other manner provided by law.

(f) In the event that a User discharges such pollutants which cause the City to violate any condition of its NPDES permit and the City is fined by EPA or the State for such violation, then such User shall be fully liable for the total amount of the fine assessment against the City by the EPA and /or State.

(g) No person shall willfully or negligently break, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subjected to sanctions set out in EC 6.550 to 6.586.

(h) 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.

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

1. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the City Manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The City Manager may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the City Manager that the period of endangerment has passed, unless the termination proceedings EC 6.576(9) are initiated against the User.

2. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the City Manager prior to the date of any Reconsideration or Appeal under EC 6.562.

(b) The filing of an appeal pursuant to EC 6.562 shall not stay an emergency suspension by the City Manager.

(9) Termination of Discharge.

(a) In addition to the provisions in EC 6.560(2), any User who violates the following conditions is subject to discharge termination:

1. Violation of individual wastewater discharge permit conditions;
2. Failure to accurately report the wastewater constituents and characteristics of its discharge;
3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
4. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
5. Violation of the Pretreatment Standards in EC 6.552.

(b) Such User will be notified of the proposed termination of its discharge and be offered an opportunity to appeal as set out in EC 6.562. Exercise of this option by the City Manager shall not be a bar to, or a prerequisite for, taking any other action against the User.

6.578 Industrial Pretreatment Program — Judicial Enforcement Remedies.

(1) General. Nothing in EC 6.550 to 6.586 shall prevent the City Manager from seeking judicial or governmental agency assistance to implement the purposes and provisions of EC 6.550 to 6.586.

(2) Injunctive Relief. When the City Manager finds that a User has violated, or continues to violate, any provision of EC 6.550 to 6.586, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City Manager may petition the Lane County Circuit Court through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by EC 6.550 to 6.586 on activities of the User. the City Manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

(3) Civil Penalties.

(a) A User who has violated, or continues to violate, any provision of EC 6.550 to 6.586, an individual wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty allowed under State law but not less than \$1,000 per violation but not to exceed

\$25,000, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

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

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

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

(4) Criminal Prosecution.

(a) A User who willfully or negligently violates any provision of EC 6.550 to 6.586, an individual wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not less than \$1,000 but not more than \$25,000 per violation, per day, or imprisonment for not more than one year, or both.

(b) A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$1,000 but not more than \$25,000, or be subject to imprisonment for not more than one year, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

(c) A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to EC 6.550 to 6.586 individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under EC 6.550 to 6.586 shall, upon conviction, be punished by a fine of not less than \$1,000 but not more than \$25,000 per violation, per day, or imprisonment for not more than one (1) year, or both.

(d) In the event of a second conviction, a User shall be punished by a fine of not less than \$1,000 but not more than \$25,000 per violation, per day, or imprisonment for not more than three years, or both.

(5) Remedies Nonexclusive. The remedies provided for in EC 6.550 to 6.586 are not exclusive. The City Manager may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's

enforcement response plan. However, the City Manager may take other action against any User when the circumstances warrant. Further, the City Manager is empowered to take more than one enforcement action against any noncompliant User.

6.580 Industrial Pretreatment Program — Supplemental Enforcement. Action.

- (1) **Payment of Outstanding Fees and Penalties.** The City Manager may decline to issue or reissue an individual 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 EC 6.550 to 6.586, a previous individual wastewater discharge permit, or order issued hereunder.
- (2) **Water Supply Severance.** Whenever a User has violated or continues to violate any provision of EC 6.550 to 6.586, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated its ability to comply.
- (3) **Public Nuisances.** A violation of any provision of EC 6.550 to 6.586, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the City Manager. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

6.582 Industrial Pretreatment Program — Affirmative Defenses to Discharge Violations.

(1) Upset.

- (a) An upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of subsection (1)(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 Manager 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.

(2) Prohibited Discharge Standards. A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in EC 6.552(1)(a) or the specific prohibitions in EC 6.552(1)(b)1.c. through EC 6.552(1)(b)1.g. if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

(a) A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

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

(3) Bypass.

(a) For the purposes of EC 6.582:

1. “Bypass” means the intentional diversion of wastestreams from any portion of a User’s treatment facility.
2. “Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections (3)(c) and (3)(d).

(c) Bypass Notifications.

1. If a User knows in advance of the need for a bypass, it shall submit prior notice to the City Manager, at least ten (10) days before the date of the bypass, if possible.
2. A User shall submit oral notice to the City Manager of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The City Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) Bypass.

1. Bypass is prohibited, and the City Manager may take an enforcement action against a User for a bypass, unless:
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which

occurred during normal periods of equipment downtime or preventive maintenance; and

c. The User submitted notices as required under subsection (3)(c) above.

2. The City Manager may approve an anticipated bypass, after considering its adverse effects, if the City Manager determines that it will meet the three conditions listed in subsection (3)(d) above.

6.584 Industrial Pretreatment Program — Fees.

(1) Purpose. The purpose of EC 6.584 is to reduce the City's cost of implementation of the pretreatment program through a system of equitable charges or fees to be paid by the IUs subject to EC 6.550 to 6.586. These fees are in addition to the basic charges and flow based fees. The applicable charges or fees shall be set forth in a schedule of fees.

(2) Pretreatment Charges and Fees. To implement the provisions of EC 6.550 to 6.586, the City Manager may administratively impose fees pursuant to EC 2.020 of this code.

(a) In establishing or modifying industrial or business use fees for the POTW, the City Manager may consider all applicable factors, including but not limited to the following:

1. Reimbursement of costs of setting up and operating the POTW pretreatment program, and including the cost of plant investment, supplies, equipment, and personnel; and
2. Monitoring, inspection, and surveillance procedures including the cost of reviewing monitoring reports submitted by the industrial users.

(b) In addition to fees of general application, the POTW may charge user-specific fees based upon the actual cost for personnel, supplies and equipment, for the following:

1. Reviewing accidental discharge procedures and construction;
2. Permit application, to include the cost for processing permit applications;
3. For filing appeals; or
4. For sewer maintenance as a result of inadequate pretreatment equipment or improper maintenance of pretreatment equipment.

(c) Other fees as the City Manager may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by EC 6.550 to 6.586 and are separate from all other fees, fines, and penalties chargeable to the POTW.

ORDINANCE NO. _____

AN ORDINANCE CONCERNING THE INDUSTRIAL PRETREATMENT PROGRAM; REPEALING SECTIONS 6.501, 6.506, 6.511, 6.516, 6.521, 6.526, 6.531, 6.536, 6.541, 6.546, 6.551, 6.556, 6.561, 6.566, 6.571, 6.576, 6.581, 6.586, 6.591 AND 6.596 OF THE EUGENE CODE, 1971; ADDING SECTIONS 6.550, 6.550, 6.552, 6.554, 6.556, 6.560, 6.562, 6.564, 6.566, 6.568, 6.570, 6.572, 6.574, 6.576, 6.578, 6.580, 6.582 AND 6.584 TO THAT CODE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Sections 6.501, 6.506, 6.511, 6.516, 6.521, 6.526, 6.531, 6.536, 6.541, 6.546, 6.551, 6.556, 6.561, 6.566, 6.571, 6.576, 6.581, 6.586, 6.591, and 6.596 of the Eugene Code, 1971, are repealed.

Section 2. Sections 6.550, 6.552, 6.554, 6.556, 6.560, 6.562, 6.564, 6.566, 6.568, 6.570, 6.572, 6.574, 6.576, 6.578, 6.580, 6.582, and 6.584 of the Eugene Code, 1971, attached as Exhibit A to this Ordinance are added.

Section 3. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 5. To ensure there is no lapse in the City's compliance with the federal Clean Water Act It is necessary for this Ordinance to take effect concurrently with the Oregon Department of Environmental Quality's final approval of it, which could occur within the thirty days described in Section 32(1) of the Eugene Charter of 2002. Therefore, pursuant to the provisions of Section 32(2) of the Eugene Charter 2002, with the affirmative vote of two-thirds of the

members of the City Council, this Ordinance shall become effective on the date the Oregon Department of Environmental Quality grants it final approval,

Passed by the City Council this

___ day of _____, 2023

City Recorder

Approved by the Mayor this

___ day of _____, 2023

Mayor