

## ORDINANCE NO. 2314

### AN ORDINANCE AMENDING CHAPTER 51 OF THE HERMISTON MUNICIPAL CODE, ENTITLED "SEWERS."

Whereas, the staff of the City of Hermiston is conducting a major review of the City's Code of Ordinances, now, therefore,

#### The City of Hermiston ordains as follows:

(New language is in red and underlined and repealed language has a line through it.)

**Section 1.** Section 51.001 of the Hermiston Municipal Code is amended to read:

#### GENERAL PROVISIONS

##### 51.001 DEFINITIONS.

For the purpose of this ~~chapter~~ Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. ~~Other terms contained in this chapter shall have the definitions attributed in the city's general ordinances. Terms for land, parcels, rights-of-way shall be further defined as necessary by the Oregon Revised Statutes.~~

**BOD (BIOCHEMICAL OXYGEN DEMAND).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C., expressed in milligrams per liter.

**BUILDING DRAIN.** That part of the lowest horizontal piping of a drainage system which received the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewers, beginning five feet (1.5 meters) outside the inner face of the building walls.

**BUILDING SEWER.** The extension from the building drain to the public sewer or other place of disposal.

**CHANGE IN USE.** Changes defined in development, ~~and shall include~~ including conversion from residential to any other use including multifamily uses, and shall include an increase or change in the sewage strength, pH, character, or potential discharge of hazardous substances.

~~**CITY.** The city of Hermiston, Oregon, and shall consist of the City Manager or his designated representative unless specifically referred to the City Council in this chapter.~~

**COLLECTION SYSTEM.** The system of public sewers to be operated by the ~~city~~ City designed for the collection of sanitary sewage.

**COMBINED SEWER.** A sewer receiving both surface runoff and sewage.

**COMMERCIAL INDEPENDENT DISCHARGE.** Any business or industry which possesses an independent licensed and permitted wastewater discharge system. Any classification must maintain independent facilities with approval of appropriate regulatory agencies and provide discharge of domestic waste to the public treatment works.

**COMMERCIAL USER.** Any premises used for commercial or business purposes which is not an industry as defined in this ~~chapter~~ Chapter.

**DEVELOPMENT.** The conversion or change in character of occupancy or use of a building which would place the structure in a different building group as defined in the Uniform Building Code; the erection of a new structure; the demolishing of existing buildings for the conversion of property to a differing use; the creation of gasoline pumps, drive-up windows, traffic islands or similar alterations which channelize, alter or increase the traffic volume or pattern on adjacent roadways. DEVELOPMENT, for purposes of this Chapter ~~chapter~~, shall not mean interior remodeling, repairs, maintenance of improvements, to any existing structure which does not increase the volume of the structure. Specifically exempted under this ~~chapter~~ Chapter are building facades, roof or exterior wall repair or replacement, heating, ventilating or electrical alterations, or activities similar in character.

**DEVELOPMENT SITE.** An area consisting of a parcel, lot or tract of land ~~specifically identified by a person, as the land~~ to be altered or developed. All required area to meet parking standards and similar requirements for a particular development shall be included in the term; however, the total property ownership of the proponent will not be considered in the site if it is not necessary to the development.

**DOMESTIC WASTE.** Any wastewater emanating from dwellings or from domestic activities which are performed outside the home in lieu of a home activity directly by or for private citizens.

**DWELLING UNIT.** Any housing unit with sanitary and kitchen facilities designed to accommodate one or more residents, multiple housing units, mobile homes and trailer spaces, but excluding commercial or transient housing units such as hotel and motel units and retirement homes with ten or more units under one roof, containing therein a dining room facility regularly open a minimum of six days per week and designed for the use of the residents and their guests. Independent laundry facilities serving multi-family, mobile homes and trailer units shall be considered a dwelling unit for billing purposes.

**FEE IN LIEU OF ASSESSMENT.** A charge payable upon the connection to the sewage works or the development of property.

**GARBAGE.** Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

**INDUSTRIAL USER.**

(1) Any non-governmental, non-residential user of a publicly owned treatment works which discharges more than the equivalent of 25,000 gallons per day (gpd) of sanitary wastes and which is identified in the North American Industry Classification System Standard Industrial Classification Manual, 2015 1971, Office of Management and Budget, as amended and supplemented under one of the following divisions:

- (a) Agriculture, Forestry and Fishing;
- (b) Mining;
- (c) Manufacturing;
- (d) Transportation, communications, electric, gas and sanitary services; and
- (e) Services.

(2) In determining the amount of a user's discharge for purposes of industrial cost recovery, the grantee may exclude domestic wastes or discharges from sanitary conveniences.

INDUSTRIAL WASTE. That portion of the wastewater emanating from an industrial user which is not domestic waste or waste from sanitary conveniences.

~~MAY is permissive.~~

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

OPERATION AND MAINTENANCE. All activities, goods and services which are necessary to maintain the proper capacity and performance of the treatment works for which the works were designed and constructed, including. ~~The term OPERATION AND MAINTENANCE shall include replacement as defined hereinafter.~~

~~PERSON. Any individual, firm, company, association, society, corporation or group.~~

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that have been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than a half-inch (1.27 centimeters) in any dimension.

PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

PUBLIC TREATMENT WORKS. A treatment works owned and operated by a public authority.

REIMBURSEMENT AGREEMENT. An agreement whereby the City agrees to reimburse for the cost of City required sewer facilities beyond that meeting minimum standards or oversized to serve other properties. This may include SDC credits, reimbursement from City funds or creation of a reimbursement district or other mechanism whereby properties connecting to the sewer facilities reimburse the person who paid for the cost of installing the facility. The total reimbursement shall not exceed the cost attributable to exceeding minimum standards or oversizing. No reimbursement agreement shall exceed 10 years.

REPLACEMENT. Acquisition and installation of equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which the works were designed and constructed.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface and groundwater are not intentionally admitted.

SERVICE AREA. All the area served by the treatment works and for which there is one uniform user charge system.

SEWAGE. A combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with the ground, surface and storm waters as may be present.

SEWAGE TREATMENT PLANT. An arrangement of devices and structures used for treating sewage.

SEWAGE WORKS. All facilities for collecting, pumping, treating and disposing of sewage.

SEWER. A pipe or conduit for carrying sewage.

~~SHALL is mandatory.~~

SLUG. Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

STORM DRAIN OR STORM SEWER. A sewer which carries storm and surface, waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

SUBDIVIDER. A person who partitions or subdivides property.

SUSPENDED SOLIDS. Solids that either float on the surface or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

TAMPER. Any unauthorized alteration or attempted alteration of any component of the sewer or water system, including but not limited to disconnecting or turning on or off sewer or water service or tapping into the sewer or water system, regardless of whether damage to the system

occurs. It also includes unauthorized alteration of pollution monitoring or other equipment required by an relied on by the City to compute rates or determine compliance with this Chapter.

USER. The person who is responsible for the payment of the sewer system charges.

USER CHARGE. The periodic charges levied on all users of the public treatment works and shall, at a minimum, cover each user's proportionate share of the cost of operation and maintenance.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.

**Section 2.** Section 51.002 of the Hermiston Municipal Code is amended to read:

51.002 DEPOSITING OBJECTIONABLE WASTES.

(A) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the City ~~city~~, or in any area under the jurisdiction of the City ~~city~~, any human or animal excrement, garbage or other objectionable waste.

(B) It shall be unlawful to discharge to any natural outlet within the City ~~city~~, or in any area under the jurisdiction of the City ~~city~~, any sewage, hazardous substances or other polluted waters, except where suitable treatment has been provided in accordance with this Chapter ~~subsequent provisions of this subchapter~~.

**Section 3.** Section 51.003 of the Hermiston Municipal Code is amended to read:

51.003 PRIVY VAULTS AND THE LIKE; CONNECTION TO PUBLIC SEWER REQUIRED.

(A) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(B) The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the ~~city~~ City and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer ~~in the city shall, are hereby required~~ at their expense, ~~to~~ install suitable toilet facilities therein, and ~~to connect to~~ the facilities directly with the proper public sewer in accordance with the provisions of this ~~chapter~~ Chapter within 90 days after date of official notice to do so, provided that the public sewer is within 300 feet of the property line. This requirement does not prohibit vaults or privies temporarily provided in association with construction and in accordance with all Oregon State Health Division regulations or other applicable regulations.

(C) Should sewage be discharging to natural outlets, the ground surface, or into domestic water supplies, connection may be required within five working days of notification to connect. The person required to make the connections shall pay all fees and charges contained herein.

**Section 4.** Section 51.004 of the Hermiston Municipal Code is amended to read:

51.004 PRIVATE SEWAGE DISPOSAL.

- (A) Where a public sanitary sewer is not within 300 feet, the building sewer shall be connected to a private sewage disposal system complying with the requirements of the applicable regulatory agencies.
- (B) Upon connection to a public sewer disposal system, the owner shall clean, abandon, and eliminate the private sewage system in accordance with applicable regulations.
- (C) The owner shall operate and maintain ~~the~~ private sewage disposal facilities in a sanitary manner at all times, at no expense to the City ~~city~~.

**Section 5.** Section 51.005 of the Hermiston Municipal Code is amended to read:

51.005 TAMPERING WITH SEWER SERVICE EQUIPMENT.

A. No unauthorized person shall ~~tamper with or~~ maliciously willfully or negligently break, damage, destroy, uncover ~~or~~ deface ~~or tamper with~~ any structure, accessories ~~appurtenance~~ or equipment which is a part of the sewage works. Any person violating this provision shall be liable to the City for its costs to restore and repair or replace any item damaged and may be subject to prosecution ~~subject to immediate arrest under charge of criminal mischief~~.

B. Service may be terminated for an intentional violation of the Section or for failure to reimburse the City for damages. Ten days' notice and an opportunity to appeal in the same manner as a delinquency.

C. The City may require payment of any tampering fee, service reinstatement, connection fee or other fees established by resolution of the City Council.

**Section 6.** Section 51.006 of the Hermiston Municipal Code is amended to read:

51.006 SEWER MAIN CONSTRUCTION.

(A) The City ~~wastewater utility~~ may cause the provision of wastewater service to be interrupted or terminated when necessary for repair, connection, extension and other times as shall be necessary to maintain and extend the sewer system ~~utility~~.

(B) The minimum size of wastewater mains required to serve any part of the City ~~city~~ shall be eight inches. Any developer or subdivider shall install the necessary wastewater system and all appurtenant work at its sole expense. Should a development require wastewater mains in excess of eight inches, the City ~~City Manager, or his/her designee~~, will make the final decision on the size of the mains to be installed by the developer or subdivider. The actual size of public sewers

required for subdivision or development shall be determined by the ~~City~~ city administration based on design flows for maximum consumption. If the ~~City~~ City Manager or his/her designee requires the developer or subdivider to install wastewater lines in excess of eight inches in order to provide for future wastewater capacity, ~~the City Manager, or his/her designee, may negotiate a reimbursement agreement with the developer or subdivider for the balance between the developer's or subdivider's actual cost for materials of eight inch wastewater mains and the size required by the city, subject to budget fund availability. Only the cost for increases in materials is reimbursable~~ to serve other properties, the developer may be eligible for systems development charge credits. If such credits are not available or are inadequate to reasonably reimburse the developer or subdivider for that portion of the cost attributable to the oversizing, the City may enter into a reimbursement agreement, form a local improvement district or use other options to address costs attributable to oversizing.

(C) All public sewers required to serve a subdivision or development shall be installed by the developer or subdivider ~~individual initiating development or subdivision~~. Detailed plans and specifications in accordance with standards promulgated by the city ~~City~~ shall be formally approved by the city ~~City~~ and no construction shall commence until approval is granted in writing and, at the option of the City, a preconstruction conference is held with the developer or subdivider ~~individual~~, and contractors involved in construction, and the ~~City~~ city.

(D) All public sewer extensions shall be made to the farthest point of land upon which a development ~~or subdivision is to occupy~~ occurs so far as it is technically and geographically feasible. The added cost of extending the sewer beyond that necessary to serve the property may be eligible for SDC credits, a reimbursement agreement or local improvement district as provided in paragraph B of this section.

(E) ~~When any person constructs a public sewer through undeveloped or underdeveloped areas to serve his property or constructs on the perimeter of his property, the entire cost of the public sewers shall be paid by the person. The person may request an agreement with the city for reimbursement when service connections are made to the main. Agreements shall provide for a construction charge per front foot and, if so collected by the city, shall be paid to the original installer as provided in the reimbursement agreement.~~

(F) ~~An individual's right to reimbursement through agreements shall not exceed ten years from the date of the completion of construction of the covered improvements. All payments to the original installer shall cease at the expiration of the agreement. A construction charge as provided herein may be collected by the city subsequent to the expiration of the agreement. Any fees so charged shall be credited to the utility fund exclusively for the improvement of production or distribution facilities of the city. This section shall not affect those agreements in place at the time of adoption of this chapter.~~

~~(G)~~(E) The city ~~City~~ may construct any public sewer necessary for the utility system. Connection to any public sewer may be subject to connection, reimbursement or other fees adopted resolution of the City Council. Upon construction, the city may, by resolution, establish the reimbursement fees for any sewer works constructed. Any fee will be collected upon connection to the system in accordance with this chapter.



(EH) All public sewers shall be dedicated to the ~~city~~ City upon formal acceptance by the City ~~city administration~~ on behalf of the City ~~city~~. In no case shall any public sewer connected to the ~~city~~ City system be held in any ownership other than that of the City ~~city~~. The installer of the public sewers shall guarantee the installation for one year from ~~and after~~ the date of acceptance by the City ~~city~~.

**Section 7.** Section 51.020 of the Hermiston Municipal Code is amended to read:

#### PUBLIC SEWER USE

##### 51.020 UNPOLLUTED DISCHARGES.

(A) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

(B) Storm water and all other unpolluted drainage shall be maintained on site, discharged to the sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the City ~~city administration~~. Industrial cooling water or unpolluted process waters may be discharged, only on approval of the ~~city~~ City and applicable regulatory agencies to a storm sewer, combined sewer or natural outlet.

(C) Storm water drainage systems shall be adequately sized, property placed and maintained in a proper state of repair.

(D) No person shall discharge water in violation of any other provision of law, including §51.092 and Chapter 94.05.

**Section 8.** Section 51.021 of the Hermiston Municipal Code is amended to read:

##### 51.021 PROHIBITED DISCHARGES.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(A) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;

(B) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanide in excess of two mg/l or CN in the wastes as discharged to the public sewer;

(C) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property



capable of causing damage or hazard to structures, equipment and personnel of the sewage works; or

(D) Solid or viscous substances in quantities or of the size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works, such as but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails, and paper dishes, cups, milk containers, etc.; either whole or ground by garbage grinders.

(E) Anything prohibited to be discharged by state or federal law, including any applicable NPDES or other regulatory permit.

**Section 9.** Section 51.022 of the Hermiston Municipal Code is amended to read:

#### 51.022 RESTRICTED SUBSTANCES AND WASTES.

No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the ~~City city-administration~~ that the wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming opinion as to the acceptability of these wastes, the ~~City city-administration~~ will give consideration to the factors as to quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(A) Any liquid or vapor having a temperature higher than 150°F (65°C).

(B) Any water or waste containing fats, gas, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150°F (0 and 65°C)

(C) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the ~~City city-administration~~.

(D) Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solutions, whether neutralized or not.

(E) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement to the degree that any material received in the composite sewage at the sewage treatment works exceed the limits established by the ~~City city-administration~~ for the materials.

(F) Any waters or wastes containing phenols or other taste or odor-producing substances in concentrations exceeding limits which may be established by the ~~City city-administration~~ as

necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies ~~having~~ of jurisdiction ~~of~~ over the discharge ~~or~~ to the receiving waters.

(G) Any radioactive wastes or isotopes of the half-life or concentration as may exceed limits established by the ~~City city administration~~ or not in compliance with applicable state or federal regulations.

(H) Any waters or wastes having a pH in excess of 9.5.

(I) Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as but not limited to fullers earth, lime slurries and lime residues) or of dissolved solids (such as but not limited to sodium chloride and sodium sulfate).

(2) Excessive discoloration (such as but not limited to dye wastes and vegetable tanning solutions).

(3) Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(J) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to the degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

**Section 10.** Section 51.023 of the Hermiston Municipal Code is amended to read:

51.023 ACTIONS AVAILABLE TO CITY ADMINISTRATION.

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in §51.022 of this ~~chapter~~ Chapter, and which in the judgment of the ~~City city administration~~ may have a deleterious effect upon the sewage works, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the ~~City city administration~~ may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers;

(3) Require control over the quantities and rates of discharge; and/or

(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of §51.076 of this ~~Chapter~~ chapter.

(B) If the ~~City~~ city administration permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the ~~City~~ administration and subject to the requirements of all applicable codes, ordinances and laws.

**Section 11.** Section 51.024 of the Hermiston Municipal Code is amended to read:

#### 51.024 GREASE, OIL AND SAND INTERCEPTORS.

(A) A grease interceptor shall be installed on all building sewers for all commercial and multiple dwelling unit users. Any conversion to commercial or multiple dwelling use shall be required to install a grease interceptor. The requirement for a grease interceptor may be waived by the ~~City~~ city administration when a written request is filed indicating all of the following:

(1) The waste stream from the commercial establishment meets the terms of domestic waste defined in this ~~Chapter~~ chapter; and

(2) No kitchen facilities for public service, or service to more than ten residents or dwelling units as defined herein.

(B) Oil and sand interceptors shall be required when they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients; except that the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the ~~City~~ city administration and shall be located as to be readily and easily accessible for cleaning and inspection. The ~~City~~ city administration shall make the final determination of the requirements.

**Section 12.** Section 51.025 of the Hermiston Municipal Code is amended to read:

#### 51.025 PRELIMINARY TREATMENT FACILITIES TO BE MAINTAINED BY OWNER.

Where preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at ~~the~~ owner's his expense.

**Section 13.** Section 51.026 of the Hermiston Municipal Code is amended to read:

#### 51.026 CONTROL MANHOLES.

When required by the ~~City~~ city administration, the user of the sewage system from any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole,

together with necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. The manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the City administration. The manhole shall be installed by the user at the user's expense and shall be maintained by the user so as to be safe and accessible at all times.

**Section 14.** Section 51.027 of the Hermiston Municipal Code is amended to read:

#### 51.027 MEASUREMENTS, TESTS AND ANALYSES.

(A) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this ~~chapter~~ Chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health association and shall be determined at the control manhole provided or upon suitable samples taken at the control manhole. ~~In the event that~~ If no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards or unacceptable constituents.

(B) The ~~particular~~ analysis involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls, whereas pHs are determined from periodic grab samples.

**Section 15.** Section 51.028 of the Hermiston Municipal Code is amended to read:

#### 51.028 SPECIAL AGREEMENTS.

No statement contained in this ~~Chapter~~ subchapter shall be construed as preventing any special agreement or arrangement between the ~~city~~ City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the ~~city~~ City for treatment, subject to payment therefore, by the industrial concern.

**Section 16.** Section 51.040 of the Hermiston Municipal Code is amended to read:

#### CONNECTIONS

#### 51.040 PERMIT REQUIRED; APPLICATION.

(A) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining all required permits and paying all applicable fees.

(B) Any person developing property or seeking to connect to the sewage system ~~works~~, shall

submit an application on the prescribed form, including all required information. A fee prescribed by resolution of the Council for classes of connection, inspection, construction reimbursement charges, fees in lieu of assessment, or similar required payments shall be made at the time of application. Persons developing or connecting property previously connected to the public treatment works without change in use, shall not be subject to the fees provided herein. Change in use shall be as defined in §51.001 of this ~~Chapter~~ chapter.

**Section 17.** Section 51.041 of the Hermiston Municipal Code is amended to read:

51.041 FEES.

(A) Fees established for any person developing or connecting to a public sewer shall include:

- (1) Connection and inspection fee. The direct charge levied by the ~~city~~ City for the connection to the sewage treatment works. Fees, classifications, and amounts shall be established by resolution of the City Council.
- (2) Construction reimbursement. A direct fee established by resolution to reimburse the construction cost of a public sewer as provided in this ~~Chapter~~ chapter, including any applicable system development charge as provided in Chapter 34.
- (3) Fee in lieu of assessment. A fee required for persons connecting or developing adjacent to a public sewer which was constructed at the expense of the utility rate payers and for which the benefiting property was not assessed at the time of installation, and are not subject to construction reimbursement as provided herein. No fee in lieu of assessment shall be levied in addition to a construction reimbursement fee.

(B) Fee in lieu of assessment and construction reimbursement paid in accordance with the following:

- (1) Where developing properties have multiple frontages, the fee shall be charged to the longest available frontage, regardless of possible point of connection. The records of the ~~city~~ City shall reflect the charge.
- (2) Where private contractors have installed facilities at their own cost, the fees shall be paid to the ~~city~~ City for payment to the private contractor as established by the terms of a reimbursement agreement, otherwise the fee shall be paid to the ~~city~~ City or deposit in the utility fund.
- (3) The ~~city~~ City may require new facilities to be constructed to serve developing properties. Actual cost of construction for the new public sewer will be utilized as an offset to or actual waiving of construction reimbursement or fees in lieu of assessment based upon the actual construction cost of public sewer required. No construction offset for fees may be transferred to any other person or property. Any balance of construction reimbursement or payment in lieu of assessment fees due after allowing for construction offset, shall be paid by the person developing or connecting.

**Section 18.** Section 51.042 of the Hermiston Municipal Code is amended to read:

51.042 COSTS AND EXPENSES TO BE BORNE BY OWNER.

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

**Section 19.** Section 51.043 of the Hermiston Municipal Code is amended to read:

51.043 SEPARATE BUILDING SEWER FOR EACH BUILDING: OLD BUILDING SEWERS.

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

(B) Old building sewers may be used in connection with new buildings only when they are found on examination and test, by the City ~~city administration~~, to meet all requirements of this Chapter ~~chapter~~.

**Section 20.** Section 51.044 of the Hermiston Municipal Code is amended to read:

51.044 SPECIFICATIONS.

(A) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to other applicable rules and regulations of the City ~~city~~.

(B) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the ~~city~~ City. Building sewer connections shall be allowed into a manhole, a line fitting specifically designed for building sewers, or with a tapping saddle approved by the City ~~city administration~~.

**Section 21.** Section 51.047 of the Hermiston Municipal Code is amended to read:

51.047 INSPECTION.

The applicant for the building sewer permit shall notify the City ~~city administration~~ when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the City ~~city~~.

**Section 22.** Section 51.048 of the Hermiston Municipal Code is amended to read:

51.048 EXCAVATIONS.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City ~~city~~, and any other permits required by ~~the general ordinances of the~~ City ~~city~~.

**Section 23.** Section 51.060 of the Hermiston Municipal Code is amended to read:

RATES, CHARGES AND BILLING

51.060 USERS CHARGES SYSTEM.

User charges shall be levied on all users of the public treatment works which shall cover the cost of operation and maintenance, debt service and other administrative costs of treatment works. ~~The user charge system shall distribute these costs in proportion to each user's contribution to the wastewater loading of the treatment works.~~

**Section 24.** Section 51.061 of the Hermiston Municipal Code is amended to read:

51.061 WASTEWATER CHARACTERISTICS: [RESERVED].

~~Since the only wastewater characteristic which influences costs of operation and maintenance in the Hermiston Treatment Works is volume, a flow charge shall be established so that all costs associated with this treatment works shall be distributed in proportion to each user's volumetric contribution to the waste stream.~~

**Section 25.** Section 51.062 of the Hermiston Municipal Code is amended to read:

51.062 CLASSIFICATION OF USERS: NON-METERED USERS.

(A) Classification of users. Certain users shall be grouped into classes of users discharging approximately the same volume of wastewater and shall be levied a flat charge which is calculated from the flow charge by applying the average volume for that class.

(B) Nonmetered users. Those users who are not in one of the user classes with assigned average flow volumes and whose water consumption or wastewater discharge is not metered shall be assigned an approximate wastewater and shall be billed on the flow charge according to this assigned volume.

(C) Appeal. Should any user believe that the assignment to a particular user class is incorrect or that a portion of the user's ~~he has been incorrectly assigned to a particular user class or should any user believe that a portion of his metered flow is~~ lawfully not discharged into the sewerage system, that user may apply for review of their ~~his~~ user charge as provided in this ~~chapter~~



## Chapter.

(D) Reassignment of a user. Should the city City determine that a user is incorrectly assigned to a user class, ~~they~~ the City shall reassign a more appropriate user class to that user and shall notify that user of the reassignment.

**Section 26.** Section 51.063 of the Hermiston Municipal Code is amended to read:

### 51.063 RECORDS.

Records of all assigned rates and any assigned wastewater volumes to user and user classes shall be kept on file with the city City and shall be open for public inspection.

**Section 27.** Section 51.065 of the Hermiston Municipal Code is amended to read:

### 51.065 ESTABLISHMENT OF USER CHARGES.

The classification, methodology and amount of sewer user charges shall be established by resolution of the City Council. ~~are hereby established as follows:~~

(A) Except as otherwise provided, sewer user charges shall be based on and included in the water usage rates established by the City Council, including any base rate. ~~Sewer user service charges established. The City Council shall establish the charges by resolution. The charges, except as hereinafter set forth, are established for all dwelling units and motel units at a uniform rate and all property other than the above-described dwelling units and motel units shall be based upon the quantity of water reaching the premises from the city water system, private water system or from private sources of supply, including water from the ground of the premises or elsewhere.~~

(B) ~~Dwelling units. The rate of sewer user service charge against each and every dwelling unit (any housing unit with sanitary and kitchen facilities designed to accommodate one or more residents, multiple housing units, mobile homes and trailer spaces, but excluding commercial (transient) housing units such as hotel and motel units, and retirement homes with ten or more units under one roof, containing therein a dining room facility regularly open a minimum of six days per week, primarily for the use of the residents and their guests), shall be established by resolution. Independent laundry facilities serving multifamily, mobile homes and trailer units shall be considered a dwelling unit for billing purposes.~~

(C) ~~Motel units. The rate of sewer user service charge against each and every motel unit (and motel unit used for transient housing) shall be established by resolution.~~

(D) Commercial independent discharge. As defined in §51.001, users of this class must operate and maintain independent wastewater disposal facilities which are currently licensed by the state and approved by any other applicable regulatory authority for the disposal of wastewater. During all times when approved and licensed wastewater facilities are operable, the rate for discharge to the public treatment works will be based on the actual metered flow of discharge, or will be

based on the calculated discharge of each employee per shift per day, in accordance with the resolution of the City Council.

- (1) Metered users of this class will provide access to ~~city~~ City personnel to read the meter in each billing period.
- (2) Metered users of this class will provide an annual calibration and certification of the metering device from an individual certified for verification.
- (3) Non-metered users of this class shall provide a verified employee count and total hours worked during the billing period. The ~~city~~ City will establish the date for the submittal with each user. Employee information must be expressed in total employees per shift per day.
- (4) In the event that independent discharge facilities are not operating, or for any other reason the total discharge of a user in this class is provided to the public treatment works, user rates will be calculated in accord with the commercial account category, or in the event that the discharge exceeds 25,000 gallons per day, an industrial cost recovery rate will be applied in accord with this Chapter ~~chapter~~.
- (5) Should users of this class not provide access to the waste meter, verification of meter accuracy, or employment information as required, the user shall be billed at the commercial rate.

~~(CE) Commercial users. All users and user groups not specifically defined herein shall be considered commercial for purposes of this user rate. The sewer user charge for users relying in whole or in part on private water supplies shall be based on~~ The rate of sewer user service charge shall be on the basis of water consumption through both public and private water supplies. The base charge shall apply on the basis of to each water supply meter and each un-metered water supply line.

~~(1) Average billing method.~~

~~(a) Any user of this group may qualify upon written request for a winter average billing method if, water consumption from public or private water supply is 50% higher in the months of May, June, July, and August than the winter time average in the months of November, December, January and February, and all additional consumption is not returned to the public treatment works.~~

~~(b) If the user qualifies for a winter average billing method, the average consumption will be used to bill the months of March through October and actual consumption in November through February. The winter average will be annually updated to the most recent continuous use in the winter months, and this updated average used to bill the ensuing eight month period.~~

~~(2) Special billing method. Any commercial user which utilizes delivered water as an integral part of a produced product, shall be billed based upon a waste meter, or in the same manner as~~

provided for commercial independent discharge accounts.

~~(3) — Multiple commercial accounts. When more than one independent business is within a single structure, the commercial rate and number of commercial minimum charges applicable to the account shall be based upon the number of independent sanitary facilities provided in the structure. The charge shall be equal to the sum of commercial unit charges times the commercial unit minimum rate, plus a charge on water consumption which exceeds the allowance per commercial unit.~~

~~(F) — Combined dwelling units and others. Where both dwelling units and motel units are combined on the same water supply, the charges shall be at the dwelling unit rate plus the motel unit rate. Where both dwelling units and commercial occupancies are combined on the same water supply, the charges shall be at the dwelling unit rate required with an additional charge based on water consumption. Consumption charges will be calculated allowing a reduction in total consumption equal to the gallons allowed in the base rate of consumption per dwelling unit. The charge shall be equal to the sum of the dwelling units increased by one unit, all charged at the dwelling rate, plus a charge on that water consumption which exceeds the allowance per dwelling unit. The lowest charge shall be equal to the number of dwelling units increased by one unit and charged at the dwelling unit rate.~~

(D) The City Council may adopt alternate or additional billing methodologies, rates or surcharges based on the unique impacts of a user or class of users on the sewer system, including but not limited to, the characteristics of the discharge into the sewer system.

**Section 28.** Section 51.066 of the Hermiston Municipal Code is amended to read:

#### 51.066 NEW USERS AND VACANCIES.

The sewer user charge shall begin on the date of connection to the system ~~based on the used categories in this code.~~ Once the sewer user charge has commenced, no credit shall be given to any commercial or single dwelling unit account unless it can be demonstrated that all water sources to that property have been discontinued. If the date upon which the user charge is commenced or altered does not fall on the first day of a billing period, the rates shall be apportionately prorated.

**Section 29.** Section 51.067 of the Hermiston Municipal Code is amended to read:

#### 51.067 ~~MOBILE HOME, TRAILER PARK, MULTIPLE DWELLING OR MULTIPLE COMMERCIAL VACANCIES.~~ [RESERVED.]

~~Sewer use charges as described in the resolution adopting user rates shall be billed for each unit, unless the owner or manager thereof provides a specific listing of vacant units within a structure on the date prescribed by the city. If proof of vacancies is provided, sewage use shall be calculated based on the occupied units times the applicable rate per unit, however, in no event will the number of units billed be less than one unless it can be demonstrated that all water sources to the structure have been discontinued. Failure to provide a listing of occupied units on~~

~~the prescribed date will cause the billing to the user to be based on the total number of dwelling units times the dwelling unit rate.~~

**Section 30.** Section 51.068 of the Hermiston Municipal Code is amended to read:

#### 51.068 WATER CONSUMPTION.

For the user classes billed on a consumption basis, all water supply shall be considered, whether public or private. In the event water meters are not in place, ~~inoperative, or for some reason cannot be read,~~ all consumption will be based on 5000 gallons of water per month unless otherwise provided by the rate resolution. ~~the estimated water consumed. Where estimations must be made for multiple billing periods, the user shall be allowed a consumption base allocation equivalent to the amount estimated, and all actual consumption billed at the appropriate rate. In the event estimated consumption exceeds actual consumption, the user will be credited with any amounts paid in excess of actual consumption. Where no meter exists, bills will be as provided in this subchapter.~~

**Section 31.** Section 51.069 of the Hermiston Municipal Code is amended to read:

#### 51.069 DISPOSAL OF ON-SITE WASTES.

(A) On-site disposal waste. Charges for dumping on-site disposal wastes at the City's ~~city's~~ sewage treatment plant shall be based on the measured gallonage deposited. These charges shall cover costs of operation and maintenance of the treatment plant and any appropriate local capital costs allocable to the treatment of these wastes and shall be in accord with the resolution of the City Council adopting rates for this class of use.

(B) Hours. Hours for acceptance and locations for disposal of on-site wastes shall be established by the City ~~city~~. No waste will be accepted for disposal at any other time or location.

(C) Samples. Prior to depositing, a sample of waste proposed to be deposited shall be taken. If there is no biological activity in the waste, or if any constituent of the waste is identified which violates the provisions of this ~~chapter~~ Chapter for deposit in public sewers, the waste will be rejected.

(D) Restrictions. The ~~city~~ City may establish maximum volume and strength restrictions on deposited waste. Any restrictions shall be promulgated in writing to the depositors of the waste.

(E) Violations. Any waste deposited which violates the terms of this Chapter ~~subchapter~~, shall be removed by the ~~city~~ City with all costs of personnel, equipment, and damages assessed to the depositor and may be prosecuted as a violation.

**Section 32.** Section 51.070 of the Hermiston Municipal Code is amended to read:

#### 51.070 INCLUSION IN USER RATES: [RESERVED.]

~~Sewer user charges and other fees and assessments shall be established from time to time by resolution of the City Council. User charges shall, at a minimum, provide sufficient revenue to meet the costs of operation, maintenance, replacement, and financing of the treatment works. Charge system shall be designed in accord with this chapter to provide a proportional distribution of costs based on the total waste loading of the system.~~

**Section 33.** Section 51.072 of the Hermiston Municipal Code is amended to read:

#### 51.072 BILLING PROCEDURES.

- (A) The users of the sewerage system shall be billed on a monthly basis for services after rendered in accordance with the rate schedule. The City may issue a combined bill for sewer, water, and solid waste management services.
- (B) The date of the billing shall be in accordance with the monthly cycle billing.
- (C) Notice of billing, delinquencies, and all other required information shall be deemed to have been given ~~by the city to property owners~~ when notices are placed in the United States mail with postage prepaid and addressed as shown in the utility records. ~~Failure of owner~~ to provide address change information will not cause notice to be defective. Notice of termination of sewer service may also be made by hand delivery or posting at the consumer's place of use.
- (D) Sewer user charges shall be due and payable to the ~~city~~ City no later than ten days after the date of billing.

**Section 34.** Section 51.073 of the Hermiston Municipal Code is amended to read:

#### 51.073 DELINQUENCIES AND SERVICE SHUT OFF.

- ~~(A) All bills unpaid ten days after date of issuance shall be considered delinquent and additional charge of 5% shall be made on the gross amount of the billing and notification by mail shall be given to the consumer at the address of the premises being served that the bill, with the 5% delinquency charge, shall be paid within ten days.~~
- ~~(B) In the event of failure to pay sewer charges after they have become delinquent, the city shall have the right to remove or close sewer connections and to enter upon the property for accomplishing the purposes. The expense of discontinuance, removal or closing, as well as the expense of restoring service, shall be a debt to the city and shall be paid by the user. The city may use the sewer user deposit to pay the debt.~~
- ~~(C) Sewer service shall not be restored until all charges, including delinquent charges and the expense of removal, closing and restoration, shall have been paid.~~

(A) All bills for sewer service shall be rendered monthly at the same time that bills for water

services and solid waste services are rendered and may be collected as a combined bill for water, sewage and solid waste services furnished to the consumer.

(B) All bills for water, sewage and solid waste services are due and payable within 10 days of issuance. All water, sewage, and solid waste bills unpaid, 10 days after the date of issuance, shall be considered delinquent and an additional charge shall be imposed on the gross amount of the billing.

(C) All other charges arising under this Chapter and not required to be paid in advance shall be due 10 days from the date of issuance of a statement of the amount owed. All such amounts unpaid, 10 days after date of issuance, shall be considered delinquent and an additional charge imposed.

(D) The City shall send the initial notice of delinquency to the user. If the account remains delinquent, the City, prior to terminating service, shall provide a second notice of delinquency by first class mail or personal service to the user and to the property owner if the owner has provided to the City a mailing address for notification. It shall be the responsibility of the owner to ensure that the City has a current address. The notice shall state that failure to pay the amount due may result in one or all such services being discontinued on the date specified in the notice which shall not be less than 10 days from issuance and that the City may impose a shutoff/reinstatement fee. It shall summarize the right to appeal provided in subparagraph (H).

(E) Unless other arrangements have been made, satisfactory to the City, discontinued services shall not be restored until all charges, including, but not limited to the delinquency and any shutoff/reinstatement fee have been paid.

(F) Sewer service, including water provision, may also be shut off if the consumer tampers or in any way interferes with any meter, connections, service pipes, valves or other appurtenances belonging to the City or for any violation by a consumer of the terms of this or any other applicable ordinance of the City or the statutes of the state relating to the sewer system. Notice and opportunity to appeal shall be provided in the same manner as a delinquency.

(G) Notwithstanding any other provision of this Chapter, the City may immediately shut off services, remove or close a sewer connection if there is an immediate threat of substantial harm to public health or safety. Notice shall be provided as reasonably practicable. The consumer or property owner may appeal the shut off within 10 days of notice or shutoff as provided in subparagraph (H), which appeal shall be expedited.

(H) A person notified of a delinquency may appeal the determination, in writing, stating the reasons therefor as provided in Chapter 136. Except in case of an immediate threat of substantial harm to public health or safety, service will not be shut off pending the outcome of the appeal provided the appeal is received by the City prior to the discontinuance. The appeal authority may grant the appeal, deny the appeal or adjust the delinquency, as appropriate, including providing for a payment plan. If the appeal is denied or adjusted and the amount established to be due is not paid within 10 days of notice of the decision or as otherwise provided in the decision, service may be discontinued.

**Section 35.** Section 51.074 of the Hermiston Municipal Code is amended to read:

**51.074 SEWER SERVICE REFUSED TO CUSTOMER WITH OUTSTANDING AMOUNTS OWED.**

No user may receive sewer service at any location if the user has outstanding unpaid sewer bills at any other location until all outstanding amounts owed by that user are paid in full.

**Section 36.** Section 51.075 of the Hermiston Municipal Code is amended to read:

**51.075 APPEALS.**

Any person contesting a delinquency, discontinuance of service, shut-off or related matter may appeal the decision in the same manner as provided for water services in Chapter 52.09.

~~(A) Any sewer user who feels his user charge is unjust and inequitable as applied to his premises within the intent of the foregoing provisions may make written application to the city requesting a review of his user charge. The written request shall, where necessary, show the actual or estimated average flow and/or strength of his wastewater in comparison with the values upon which the charge is based, including how the measurements or estimates were made.~~

~~(B) Review of the request shall be made by the City Council and the city administration and shall determine if it is substantiated or not, including recommending further study of the matter.~~

~~(C) If the request is determined to be substantiated, the user charges for that user shall be recomputed based on the approved revised flow and/or strength data and the new charges thus recomputed shall be applicable retroactively up to six months, as applicable.~~

**Section 37.** Section 51.076 of the Hermiston Municipal Code is amended to read:

**51.076 INDUSTRIAL COST RECOVERY.**

(A) All industrial users shall be required to pay that portion of the federal assistance grant under PL 92-500 allocable to the treatment of waste from the users.

(B) The system for industrial cost recovery shall be implemented and maintained according to the following requirements:

(1) Each year during the industrial cost recovery period, each industrial user of the treatment works shall pay its share of the total federal grant amount divided by the recovery period.

(2) The industrial cost recovery period shall be equal to 30 years or the useful life of the treatment works, whichever is less.



(3) Payments shall be made by industrial users no less often than annually. The first payment by an industrial user shall be made not later than one year after the user begins use of the treatment works.

(4) An industrial user's share shall be based on all factors which significantly influence the cost of the treatment works, such as strength, volume and flow rate characteristics. As a minimum, an industry's share shall be based on its flow versus treatment works capacity except in unusual cases.

(5) An industrial user's share shall be adjusted when there is a substantial change in the strength, volume or flow rate characteristics of user's wastes, or if there is an expansion or upgrading of the treatment works.

(6) An industrial user's share shall not include any portion of the federal grant amount allocable to unused or unreserved capacity.

(7) An industrial user's share shall include any firm commitment to the ~~city~~ City of increased use by the user.

(8) An industrial user's share shall not include an interest component.

(C) This requirement applies only to those features of wastewater treatment and transportation facilities which have been constructed with federal assistance administered by the U.S. Environmental Protection Agency under PL 92-500.

**Section 38.** Section 51.090 of the Hermiston Municipal Code is amended to read:

#### INDUSTRIAL WASTEWATER PROVISIONS

##### 51.090 OBJECTIVES.

(A) The objectives of this subchapter are:

(1) To prevent the introduction of pollutants into the ~~city~~ City sanitary sewerage systems which will interfere with the operation of the system;

(2) To prevent the introduction of pollutants into the ~~city~~ City sanitary sewerage system which will pass through the system, inadequately treated, into receiving waters or the atmosphere otherwise will be incompatible with the system;

(3) To ensure that the quality of the ~~city's~~ City's wastewater treatment plant sludge is maintained at level which allows its beneficial reuse;

(4) To protect the ~~city~~ City and ~~city~~ City personnel who may come into contact with sewage, biosolids and effluent in the course of their employment as well as protecting the general public;

- (5) To preserve the hydraulic capacity of the ~~city's~~ City's wastewater system;
- (6) To provide for equitable distribution of the cost of operation, maintenance and improvement of the ~~city's~~ City's wastewater system; and
- (7) To ensure the ~~city~~ City is able to comply with its NPDES permits conditions, biosolids use and disposal requirements and any federal or state laws which the ~~city's~~ City's wastewater system subject to.

(B) This subchapter provides for the regulation of discharges to the ~~city~~ City wastewater system through the issuance of permits to certain industrial users, through establishment of general requirements for other users, authorizes monitoring and enforcement activities, establishes administrative review procedures and requires user reporting.

(C) This subchapter shall apply to all activities within the boundaries of the City ~~city~~, and to activities and persons outside the ~~city~~ City who cause or permit a discharge, direct or indirect, to the ~~city's~~ City's sanitary sewerage systems.

**Section 39.** Section 51.091 of the Hermiston Municipal Code is amended to read:

#### 51.091 ABBREVIATIONS AND DEFINITIONS.

(A) Abbreviations. The following are a list of abbreviations that may appear in the document and be relative to the USEPA National Pretreatment Program:

CFR Code of Federal Regulations

LC50 Lethal concentration of 50% of the test organisms

l Liter

MGD Million gallons per day

mg/l Milligrams per liter

RCRA Resource Conservation and Recovery Act

SIC Standard industrial classification number issued by the U.S. Office of Management and Budget

SWDA Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)

TSS Total suspended solids

TTO Total toxic organic

USC United States Code

(B) Definitions. In addition to the definitions set forth in §51.001, For the purpose of this subchapter, the following definitions shall apply to §§ 51.090 to 51.997 unless the context clearly indicates or requires a different meaning. If this section expressly provides a different definition than §51.001 or the ordinances or resolutions of the city City, this section shall prevail. Certain terms are listed with reference to a specific statute or rule, which definitions are incorporated by reference.

ACT or THE ACT. The *Federal Water Pollution Control Act* (33 U.S.C. 1251 et seq.) amended (a/k/a “The Clean water Act”).

AFFIRMATIVE DEFENSE. The meaning and scope of 40 CFR 403.5(a)(2).

APPLICABLE PRETREATMENT STANDARDS. For any specified pollutant, ~~city~~ City prohibitive discharge standards, specific limitations on discharge, state pretreatment standards or categorical pretreatment standards, whichever standard is more stringent.

APPROVAL AUTHORITY. Oregon Department of Environmental Quality (DEQ).

AS AMENDED. The latest version of a statute, rule, or ordinance in effect on the date this subchapter is adopted. Citation of any statute or rule shall be deemed to be to the amended version.

AS APPROVED BY THE CITY. The written approval by an authorized employee of the City ~~city~~, according to the provisions of this subchapter and other applicable standards and based upon a written request by a user or permittee.

AUTHORIZED REPRESENTATIVE OF A USER. If the industrial user is a corporation, AUTHORIZED REPRESENTATIVE shall mean:

- (1) The president, secretary, or a vice president of the corporation in charge of principal business function or any other person who performs similar policy or decision-making functions for the corporation; or
- (2) The manager of one or more manufacturing, production, or operation facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(a) If the industrial user is a partnership, association or sole proprietorship, AUTHORIZED REPRESENTATIVE shall mean a general partner or the proprietor.

(b) If the individual user is representing federal, state or local governments, or an agent thereof, an AUTHORIZED REPRESENTATIVE shall mean a director or highest official, appointed or designated to oversee the operation and performance of the

activities of the government facility.

(c) The individuals described in the divisions above may designate another

AUTHORIZED REPRESENTATIVE of 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 the environmental matters for the company, and the authorization is submitted to the City ~~city~~.

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20°C., expressed in terms of weight and concentration (milligrams per liter or mg/l).

BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system which received the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewers, beginning five feet (1.5 meters) outside the inner face of the building walls.

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

BYPASS. The intentional diversion of one or more waste streams or processes from any portion of an industrial user's treatment facility.

CATEGORICAL PRETREATMENT STANDARDS or CATEGORICAL STANDARDS. Any regulations containing pollutant discharge limits promulgated by the USEPA in accordance with Sections 307 (b) and (c) of 33 U.S.C. 1317 which apply to a specific category of industrial users and which appears in 40 CFR Chapter 1, Subchapter N, ~~Parts 405-47~~ incorporated herein by reference.

CHANGE IN USE. Changes defined in development ~~and~~ shall include conversion from residential to any other use including multi-family uses and shall include an increase to change in the sewage strength, pH, character, or potential discharge of hazardous substances.

~~CITY. The City of Hermiston, Oregon, and shall consist of the City Manager or designated representative unless specifically referred to the City Council in the subchapter.~~

CLARIFIER. An interceptor for oil and grease with sedimentation provision.

COLLECTION SYSTEM. The system of public sewers to be operated by the ~~city~~ City and designed for the collection of sanitary sewage.

COLOR. The optical density at the visual wave-length of maximum absorption relative to distilled water. 100% transmittance is equivalent to zero optical density.

COMMERCIAL. All buildings or structures which are not defined for the purposes of these

sections as residential or industrial in keeping with the city's City's zoning and building code provisions.

COMMERCIAL USER. Any premises used for commercial business purposes that are not an industry as defined in this subchapter.

~~COMMERCIAL INDEPENDENT DISCHARGE. Any business or industry that possesses an independent licensed and permitted wastewater discharge system. Any classification must maintain independent facilities with approval of appropriate regulatory agencies and provide discharge of domestic waste to the public treatment works.~~

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

CONTROL AUTHORITY. The City of Hermiston, Oregon, or City city.

COOLING WATER. The water discharged from any use to which the only pollutant added heat, such as air conditioning, heat exchangers, non-contact cooling water or refrigeration.

CUSTOMER. Any individual, firm, company, association, society, corporation, group or owner, who receives utility services from the city City such as water and sewer.

DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ). Where appropriate, the term may be used as a designation for the Director of the Department or other duly authorized official of the Department.

DEVELOPMENT. The conversion or change in character of occupancy or use a building which would place the structure in a different building group as defined in the Uniform Building Code; the erection of a new structure; the demolishing of existing building for the conversion of property to a differing use; the creation of gasoline pumps, drive-up windows, traffic islands or similar alterations which channelize, alter or increase the traffic volume or pattern on adjacent roadways. DEVELOPMENT, for purposes of this subchapter, shall not mean interior remodeling, repairs or maintenance of improvements to any existing structure that does not increase the volume of the structure. Specifically, exempted under the subchapter are building facades, roof or exterior wall repair or replacement, heating, ventilating or electrical alterations or activities similar in character.

DEVELOPMENT SITE. An area consisting of a parcel or tract of land specifically identified by a person, as the land to be altered or developed. All required area to meet parking standards and similar requirements for a particular development shall be included in the term however, the total property ownership of the proponent will not be considered on the site, if is not necessary to the development.

DISCHARGE. The DISCHARGE or the introduction of pollutants into the municipal wastewater system from any non-domestic source regulated under Section 307 (b), (c) or (d), of the Act.

DOMESTIC or SANITARY WASTE. The liquid and water-borne wastes derived from the

ordinary living processes, free from industrial wastes and of the character as to permit satisfactory disposal, without special treatment, into the ~~city~~ City wastewater system or by means of a private sewage disposal system.

DWELLING UNITS. Any housing unit with sanitary and kitchen facilities design to accommodate one or more residents, multiple housing units, mobile homes and trail, spaces, but excluding commercial or transient housing units such as a hotel and motel units and retirement homes with ten or more units under one roof, containing therein a dining room facility regularly open a minimum of six days per week and designed for the use of the residents and their guests. Independent laundry facilities serving multi-family, mobile homes and trailer units shall be considered a Dwelling Unit.

ENVIRONMENTAL PROTECTION AGENCY (USEPA or EPA). The U.S. Environmental Protection Agency. Where appropriate the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of the agency.

EXISTING SOURCE. Any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards under Section 307 (b) and (c) of 33 U.S.C. 1317 of the Act which will be applicable to the source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

GARBAGE. All refuse and solid wastes, including ashes, rubbish in cans, debris generally; dead animals, street cleanings and industrial wastes and things ordinarily and customarily dumped; solid wastes from the domestic and commercial preparation, cooking, dispensing of food; and from the handling, storage and sale of produce, but not including sewage and body waste.

GRAB SAMPLE. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream over a period of time not to exceed 15 minutes.

GREASE. Animal- or vegetable-derived oil or GREASE.

INDIRECT DISCHARGE OR DISCHARGES. The meaning of 40 CFR 403.3(g).

INDUSTRIAL USER or USER. Any person which is a source of indirect discharge which also has the same meaning as defined in 40 CFR Part 403.3 ~~(h)~~ (j) or a Significant Industrial User pursuant to 40 CFR Part 403.3(v) to the extent applicable and shall include breweries or microbreweries.

INDUSTRIAL WASTEWATER. Any non-domestic wastewater originating from a non-residential source.

INTERCEPTOR. A device designed and installed so as to adjust, separate and retain deleterious, hazardous or undesirable matter from sewage and to permit normal sewage liquid wastes to discharge from the user's premises into the public sewer system.

INTERFERENCE. A discharge which, alone or in conjunction with a discharge or discharge

from other sources both:

(1) Inhibits or disrupts the municipal wastewater system, its treatment processes operations, or its solids handling processes; use or disposal; and

(2) Therefore is a cause of a violation of any requirements of the NPDES permit (including an increase in magnitude or duration of a violation) or of the prevention of biosolids use or disposal in compliance with the following statutory provisions and regulations of permit issued thereunder (or more stringent state or local regulations); Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA), (including Title H), ~~more commonly referred to as the~~ Resource Conservation and Recovery Act (RCRA) and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act, as defined in 40 CFR 403.3 (i).

LOCAL LIMITS/SPECIFIC POLLUTANT LIMITATIONS. Enforceable local requirements developed by POTW's to address federal standards as well as state and local regulations.

MEDICAL WASTES. Isolation wastes, infectious agents, human blood and blood byproduct pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

NATIONAL PRETREATMENT STANDARD, PRETREATMENT STANDARD, or STANDARD. The meaning of 40 CFR Sec. 403.30 (j).

NATIONAL PROHIBITIVE STANDARD or PROHIBITIVE DISCHARGE STANDARD. Any regulation developed under the authority of Section 307 (b) and (c) of the Act, [33 USC Sec. 1317](#), 40 CFR 403.5, DEQ or by the ~~city~~ [City](#) which prohibits the discharge of certain types or characteristics of wastewater. These prohibitions can be general or specific.

NEW SOURCE.

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

(a) The building, structure, facility or installation is constructed at a site where no other source is located;

(b) The building, structure, facility or installation completely replaces the process production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site in determining whether there are substantially independent factors as the extent to which a new facility is



integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

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

(3) Construction of a new source ~~NEW SOURCE~~ as defined under this division has commenced if the owner or operator has:

(a) Begun, or caused to begin as part of a continuous on-site construction program:

1. Any placement, assembly or installation of facilities or equipment; or
2. Significant site preparation work including clearing, excavation or removal existing buildings, structures or facilities which is necessary for the placement, assembly or installation of NEW SOURCE facilities or equipment;

(b) Entered into a binding contractual obligation for the purchase of facilities equipment that is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this division.

NON-DOMESTIC POLLUTANTS (INDUSTRIAL). Any substances other than human waste and household gray water (shower, dish washing operations, etc.)

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES). Permit program of USEPA.

OPERATION AND MAINTENANCE (O&M). All activities, goods and services which are necessary to maintain the proper capacity and performance of the treatment works for which works were designed and constructed. OPERATION AND MAINTENANCE shall include replacement as defined hereinafter.

OTHER WASTES. Include wastes other than human waste, but are not limited to ashes, cinders, industrial sludges, sand, mud, straw, insoluble shavings, metal, glass, rag feathers, tar, creosote, waste antifreeze, plastics, wood, animal paunch contents, offal, blood, bones, meat trimmings and wastes, fish or fowl heads, entrails, trimmings and wastes, lard, tallow, baking dough, chemicals, paint residues, cannery waste bulk solids, hair and fleshing or plastic or paper dishes, cups or food or beverage containers, whether whole or ground.

~~OWNER. The person(s) who may hold title to or lease the property for which was service has or will be provided.~~

PASS THROUGH. The occurrence of an indirect discharge which exits the POTW into water of

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

~~PERSON. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.~~

pH. The logarithm (base ten) of the reciprocal of the concentration of the hydrogen ion expressed in grams per liter of solution, indicating the acidity or alkalinity of the solution.

POLLUTANT. Any substance discharged into the system that, if discharged directly, would alter the quality of the water of the state to a degree which unreasonably affects the water for beneficial use.

PRETREATMENT or TREATMENT. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants properties in wastewater prior to or in lieu of introducing the pollutants into the municipal wastewater system. The reduction or alteration may be obtained by physical, chemical or biological processes, by process changes or by other means.

PRETREATMENT REQUIREMENT. Any substantive or procedural requirements related to pretreatment, other than national pretreatment standards, imposed on an industrial user.

PROHIBITED DISCHARGE STANDARD. Absolute prohibitions against the discharge of certain types or characteristics of wastewater as established by EPA, DEQ and/or the Director.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of foods that have been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than a half-inch (1.27 centimeters) in any dimension.

PUBLIC SEWER. A sewer, either sanitary or storm, in which all owners of abutting property have equal rights, and which is controlled by public authority.

PUBLICLY OWNED TREATMENT WORK (POTW). A "treatment works" as defined [in USC 33 chapter 36, section 1292](#) ~~Section 212 of the Act (33 U.S.C. 1292)~~, which is owned by the state or municipality. The definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.

RECEIVING STREAM or WATER OF THE STATE. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage

systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

REPLACEMENT. Acquisition and installation of equipment, accessories appurtenances that are necessary during the service life of the treatment works to maintain the capacity and performance for which the works were designed and constructed.

SANITARY SEWER. A sewer that carries sewage and to which storm, surface and groundwaters are not intentionally admitted.

SERVICE AREAS. The area served by the treatment works and for which there is no uniform user charge system.

SEWAGE. Water-carried human wastes or a combination of water-carried wastes from residences, commercial buildings, institutions and industrial establishments, together with the ground, surface, storm or other waters as may be present.

SEWAGE WORKS. All facilities for collecting, pumping, treating and disposing of sewage.

SEWER. A pipe or conduit for carrying sewage.

~~SHALL. Is mandatory; "May" is permissive.~~

SIGNIFICANT INDUSTRIAL USER. Except as provided in division (3) below, the term SIGNIFICANT INDUSTRIAL USER means:

- (1) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N;
- (2) Any other industrial user that discharges an average of 25,000 gallons per day or more process wastewater to the POTW (excluding sanitary, non-contact cooling and boiling blow-down wastewater); contributes a process waste stream which makes up 5% or more of the average dry weather, hydraulic or organic capacity of the POTW treatment plant; or is designated as by the Control Authority as defined in 40 CFR [403.3](#) ~~403.12(a)~~ on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8 (f)(6)); and
- (3) Upon finding that an industrial user meeting the criteria in division (2) above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority (as defined in 40 CFR [403.3](#) ~~403.12~~
  - (a) may at any time, on its own initiative or in response to a petition receive from an industrial user or POTW, and in accordance with 40 CFR 403.8 (f)(6), determine that the industrial user is not a significant user.

**SLUGLOAD.** Any pollutant including BOD and COD, released in a non-routine, episodic, non-customary batch discharge at a flow rate or concentration which has the potential to cause a violation of the specific discharge prohibitions in §51.092.

**STORM DRAIN or STORM SEWER.** A sewer which carries stone and surface waters and drainage, but excludes sewage and industrial waste, other than unpolluted cooling waters.

**STORM WATER.** Any flow occurring during or following any form of natural precipitation and resulting therefrom, including snowmelt.

**SUSPENDED SOLIDS or TOTAL SUSPENDED SOLIDS (TSS).** The total suspended matter that floats on the surface of, or is suspended in water, wastewater or other liquid, and which is removable by laboratory filtering.

**TREATMENT PLANT.** The portion of the POTW designed to provide treatment of sewage and industrial wastes.

**TOXIC POLLUTANTS or POLLUTANTS.** Those substances listed in 40 CFR Part 122, Appendix D, [or 40 CFR 116](#) which is expressly incorporated herein, and any other substance(s) which, either singly or by interaction, may injure or interfere with any wastewater treatment process; may constitute a hazard to humans or animals; or may exceed any limitation adopted as a Categorical Pretreatment Standard.

**UPSET.** An exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in this regulation, or limitation of a discharge permit, due to factors beyond the reasonable control of the discharger and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance or careless improper operation thereof.

**USEPA.** The United States Environmental Protection Agency.

**USER.** Any person who contributes, causes or permits the contribution of wastewater into the ~~city~~ [City](#) wastewater collection system and treatment facility. USER is also defined as the person who is responsible for the payment of the sewer system charge.

**USER CHARGE.** The periodic charges levied on all users of the public treatment works, and shall, at a minimum, cover each user's proportionate share of the cost of operation and maintenance.

**WASTE.** Wastewater and all other WASTE substances, liquid, solid or gaseous WASTE resulting from any industrial, manufacturing, trade or business process or from the development recovery or processing of natural resources.

**WASTEWATER.** Waste and water, whether treated or untreated, discharged into or permitted to

enter a public sewer.

WASTEWATER SYSTEM or SYSTEM or CITY WASTEWATER SYSTEM or CITY SYSTEM. All ~~City~~ ~~city~~ treatment works; all ~~city~~ ~~City~~ sewers, pipes, and other conveyances discharging thereat and all devices and systems used in the storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature. This shall include any portion of the system owned and maintained by ~~the City~~ ~~a city~~.

WATERCOURSE. A channel in which a flow of water occurs, either continuous or intermittently.

**Section 40.** Section 51.092 of the Hermiston Municipal Code is amended to read:

#### 51.092 GENERAL SEWER USE CONDITIONS.

(A) General discharge prohibitions.

(1) No person shall discharge or cause to be discharged any storm water, surface water, ground water, road runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer or discharge water in violation of any provision of law, including §51.020 and Chapter 94.05.

(2) Storm water and all other unpolluted drainage shall be maintained and disposed of on site. discharged to the sewers as are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the City ~~Administration~~. Industrial cooling water or unpolluted process waters may be discharged, on approval of the ~~city~~ ~~City~~ and applicable regulatory agencies to a storm sewer, combined sewer or natural outlet.

(3) No Industrial User (IU) shall discharge, cause or permit to be discharged, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. These general and specific prohibitions apply to all IUs of the ~~city's~~ ~~City's~~ wastewater system whether or not the user is subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

(B) Specific discharge prohibitions. No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes into the system:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be sufficient either alone or by interaction to cause fire or explosion or be injurious in any other way to the facilities or operations of the ~~City~~ ~~city~~. This prohibition include waste streams with a closed cup flash point of less than 140-F or 6-C, using the test method specified in 40 CFR 261.21; or any waste stream which two consecutive readings on an explosive hazard meter, at the point discharge into the system (or at any point in the system), are more than 5% nor any single reading over 10% of the lower explosive limit (LEL) of the meter.

(2) The flammable or explosive substances including, but are not limited to, gasoline, kerosene, naphtha, benzene, hexane, toluene, xylene, ethers, alcohols, ketones, aldehyde peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

(3) Solids (greater than 1/2-inch in any dimension) or viscous substances (including but not limited to petroleum oil, non-biodegradable cutting oil or products of mineral oil origin which will or may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater system including, but not limited to: animal and vegetable-based fats, wax, grease or oils, emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65°C).

(4) Any wastewater having a pH less than 5.5 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, personnel of the ~~city~~ City system, unless the ~~city~~ City approves the waste in variance because special conditions in the system, but in no case shall the pH be less than 5.0.

(5) (a) Any wastewater containing pollutants or other wastes in sufficient quantity (flow concentration including, but not limited to BOD, COD, etc.), either singly or by interaction, to pass through or interfere with any wastewater treatment or solids handling and utilization process, or constitute a hazard to humans or animals, or to exceed any limitations adopted as categorical pretreatment standards.

(b) A toxic pollutant shall include, but not be limited to, any pollutant identified in the "Toxic Pollutant List" set forth in 40 CFR Part 122, Appendix D.

(c) All toxic pollutants shall be deemed to be prohibited or regulated substances for purposes of this subchapter.

(6) Any noxious or malodorous liquids, gases, solids or other wastewater which either singly or by interaction are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair. No discharge shall result in toxic gases, vapors or fumes within the collection or treatment system in a quantity that may cause worker health and safety problems.

(7) Any substance which may cause the system's effluent or treatment residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process or any substance which may cause the system to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or state standards applicable to the solids management methods being used.

(8) Any sludges, screenings or other residues from the pretreatment of industrial

wastes.

(9) Any substance discharged in such a strength as to potentially cause the ~~city~~ City system to violate its NPDES and/or other disposal system permits.

(10) Any trucked or hauled pollutants, except at discharge points designated by the City ~~city~~.

(11) Any substances identified as hazardous waste according to 40 CFR Part 261, except specifically authorized by the City ~~city~~.

(12) Any wastewater having a temperature which will inhibit biological activity in any ~~city~~ City treatment plant resulting in interference; but in no case, wastewater with a temperature at the introduction into the POTW (measured at the nearest downstream manhole) which exceeds 104°F or 40°C.

(13) Any slugload.

(14) Any unpolluted water including, but not limited to, non-contact cooling water, rainwater, groundwater, surface drainage, roof drainage, water from yard fountains, ponds or pool (except filter backwash water from swimming pools and to reject water) unless prior written approval has been obtained from the ~~city~~ City. Any permitted pool water discharge must comply with DEQ testing and pH standards.

(15) Any wastewater containing any radioactive wastes or isotopes (except those included in "Oregon Regulations for the Control of Radiation," OAR 333-22-150, of the half-life or concentration as to exceed limits established by the ~~city~~ City or any applicable state or federal regulations.

(16) Any wastewater which imparts color which cannot be removed by the treatment process such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plants effluent thereby violating the ~~city~~ City NPDES permit.

(17) Materials which exert or cause:

(a) Unusual concentrations of inert suspended solids (such as but not limited to fullers, earth, lime substrate and lime residues) or of dissolved solids (such as but not limited to sodium chloride and sodium sulfate);

(b) Excessive discoloration (such as but not limited to dye wastes and vegetable tanning solutions);

(c) Unusual BOD, chemical oxygen demand (COD) or chlorine requirements in the quantities as to constitute a significant load on the sewage treatment works; and/or



(d) Unusual volume of flow or concentrations of wastes constituting "slugs" as defined herein.

(18) Waters or wastes containing substances which are not amenable to treatment or reduction by sewage treatment processes employed or are amenable to treatment only to the degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(19) Wastes prohibited by this section shall not be processed or stored in a manner so that these wastes could be discharged to the municipal wastewater system.

(C) Dilution. No user shall increase the use of potable or process water in any way, for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this subchapter or its discharge permit or in lieu of proper disposal of any material as solid waste. The ~~city~~ City may impose mass limitations on dischargers that in its judgment appear to be using dilution to meet applicable pretreatment standards or requirements of this section, or in cases where the imposition of mass limitations is otherwise deemed appropriate by the City ~~city~~.

(D) More stringent limitations. The ~~city~~ City retains the right to amend this subchapter to provide for more stringent limitations or requirements on discharges to the ~~city~~ City system when deemed necessary.

(E) Categorical pretreatment standards. IU's subject to categorical pretreatment standards are required to comply with applicable standards set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

(F) State requirements. Users are required to comply with applicable state pretreatment standards and requirements set out in OAR Chapter 340. These standards and requirements are incorporated herein.

(G) Specific pollutant limitations and local limitations. In addition to categorical pretreatment standards referenced in other portions of this subchapter, no SIU shall discharge wastewater containing pollutants into the system in excess of limitations specified in its wastewater discharge permit or other limits established by the City ~~city~~. The ~~city~~ City may establish and revise from time to time standards for specific restricted substances. These standards shall be developed in accordance with 40 CFR Section 403.5 and shall implement the objectives of this subchapter. Standards established in accordance with this section will be deemed pretreatment standards for the purposes of 33 USC 1317 ~~Section 307(d) of the Act~~. Wherever a discharger is subject to both categorical pretreatment standards and a local limit for a give pollutant, the more stringent shall apply.

(H) Mass limitations. The ~~city~~ City may issue mass limitations for dischargers in addition to or in place of concentration-based limitations.

(I) Grease interceptor. A grease interceptor shall be installed on all building sewers for all commercial and multiple dwelling unit users. Any conversion to commercial or multiple dwelling use may be required to install a grease interceptor. The requirement for a grease interceptor may be waived by the ~~city~~ City ~~administration~~ when a written request is filed indicating all of the following:

- (1) The waste stream from the commercial establishment meets the terms of domestic waste defined in this subchapter; and
- (2) No kitchen facilities for public service or service to more than ten residents or dwelling units as defined herein.

(J) Oil and sand interceptors. Oil and sand interceptors shall be required when they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients; except that the interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City ~~city~~ ~~administration~~ and shall be located as to be ready and easily accessible for cleaning and inspection. The City ~~city~~ ~~administration~~ shall be the final determination of the requirements.

**Section 41.** Section 51.093 of the Hermiston Municipal Code is amended to read:

#### 51.093 INDUSTRIAL WASTEWATER PERMITS.

(A) Discharge requirements.

(1) When requested by the City ~~city~~, an IU discharging or proposing to discharge industrial or commercial wastewater into any public sewer to the ~~city~~ City system shall first apply for an industrial wastewater discharge permit, hereafter called "discharge permit" from the City ~~city~~.

(2) This discharge permit is required in addition to the commercial connection permit required for sanitary/domestic discharge.

(3) It is a violation of this subchapter for any IU to discharge non-domestic wastewater into the system if an application has been requested and a permit has not been ~~be~~ issued.

(B) Application for discharge permit. Application for a discharge permit shall ~~to~~ be made to the ~~city~~ City on a ~~city~~ City approved format. Unless a specific exemption is granted in writing by the City ~~city~~, no discharge of non-domestic wastewater from the facility shall be allowed nor shall a permit be issued unless all conditions and provisions of this subchapter are met. A new application shall be required whenever federal categorical standards apply to a discharge, or when an SIU proposes a substantial change in its discharge. An application shall include a "baseline monitoring report" described in §51.0954 (D), where applicable.

(C) Application time frame. Proposed new IUs shall apply for a discharge permit at least 90

days prior to the date that the discharge is proposed to commence. Additional data, information and drawings may be requested before a discharge permit is issued. The permit applicant shall promptly provide all requested information to the ~~City~~ City.

(D) Hazardous waste compliance. Any industrial user who commences discharging after August 23, 1990, shall provide written notification in accordance with 40 CFR 403.120 of the discharge of any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR, Part 261.

(E) Certification. All applications, reports and information submitted to the City shall be signed and certified in accordance with 40 CFR 403.12(l). Any reports required in this subchapter and any other documents required to be submitted to the ~~city~~ City or maintained by the industrial user shall be subject to applicable civil and criminal provisions of the ~~city's~~ City's rules and regulations, state law relating to fraud and false statements. In addition, the industrial user shall be subject to:

- (1) The provisions of 18 USC Section 1001 relating to the fraud and false statements;
- (2) The provisions of Sections 309(c)(4) of the Clean Water Act, governing false statements; and
- (3) The provision of Section 309(c)(6) of the Act regarding responsible corporate officers.

(F) Application/permit evaluation period. The ~~city~~ City will evaluate the application and may require additional information. Within 60 days of receipt of a complete permit application, the ~~city~~ City will determine whether ~~or not~~ to issue a wastewater permit. If no determination is made within this time period, the application will be deemed denied.

(G) Application/permit rejection. If any waters or wastes are discharged or are proposed to be discharged to the ~~city's~~ City's sewer system, which contain the substances or possess the characteristics enumerated in other sections of this subchapter, and which in the judgment of the City ~~city~~, may have a deleterious effect upon the system, or which otherwise create a hazard to life, worker safety or constitute a public nuisance, the ~~city~~ City may take any of the following actions:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition prior to discharging to the system;
- (3) Require control over the quantities and rates of discharge; or
- (4) Require payment to cover the added cost of handling and treating the wastes not ~~converted~~ covered by existing taxes or sewer charges under the provisions of ~~§51.096~~ of this Chapter ~~chapter~~.

(H) Compliance schedules. The ~~city~~ City may require compliance schedules in any permit to ensure that the appropriate technology is installed in a time period acceptable to the City ~~city~~.

(I) Permit contents. Wastewater discharge permits shall contain at a minimum the conditions of 40 CFR 403.8 (f)(1)(iii)(A)-(E). In addition, permits may contain the following:

- (1) Fees and charges to be paid upon initial permit issuance;
- (2) Limits on average and maximum rates and time of discharge and requirements for flow regulations and equalization;
- (3) Requirements for installation and maintenance of inspection and sampling facility compatible with facilities of the City ~~city~~;
- (4) Compliance schedules;
- (5) Requirements for submission of special technical reports or discharge reports where the same differ from those prescribed by this subchapter; and
- (6) An effective date and expiration date of the permit.

(J) Right of revision or permit modification. The ~~city~~ City reserves the right to amend any wastewater discharge permit issued hereunder in order to assure compliance by the ~~city~~ City with applicable laws and regulations. Upon promulgation, a new federal categorical standard for a particular industrial subcategory, if more stringent than the limits established under the ~~city's~~ City's current rules and regulations, will supersede the local standard. Permits will be modified as soon as possible subsequent to a change in the federal requirements. The ~~city~~ City shall notify the user of any proposed changes in its permit prior to the effective date of the change.

(K) Permit duration and property interest acquired. All wastewater discharge permits shall be issued for an initial period not to exceed five years as determined by the City ~~city~~. All permits are subject to amendment, revocation, suspension or termination as provided in ~~these~~ this subchapter or rules adopted by the City ~~these rules~~. No user acquires any property interest by virtue of permit approval. Continued approval is expressly contingent upon compliance with all applicable federal, state and location requirements.

(L) Limitations on permit transfer. Wastewater discharge permits are issued to specific user for a specific operation and are not assignable to another user or transferable to ~~an other~~ another person or location without the prior written approval of the City ~~city~~. If a permitted industry facility is sold, the seller shall provide a copy of the existing discharge permit to the new owner or operator.

(M) Wastewater discharge permit revocation. Wastewater discharge permits may be revoked for any of the following reasons:

- (1) Failure to notify the ~~city~~ City of significant changes to the wastewater prior to the

changed discharge;

- (2) Falsifying self-monitoring reports or other required reports;
- (3) Tampering with monitoring equipment or sample;
- (4) Refusing to allow the ~~city~~ City timely access to the facility premises or records;
- (5) Failure to meet effluent limitations;
- (6) Failure to pay fines, penalties or sewer service charges;
- (7) Failure to meet compliance schedules;
- (8) Failure to complete a wastewater survey;
- (9) Failure to provide advance notice of the transfer of a permitted facility; or
- (10) Violation of any pretreatment standard or requirement or any terms of the permit or the subchapter.

(N) Voiding permits. Permits shall be voided upon non-use or cessation of operations for a period of two years or longer, transfer of business ownership or upon issuance of a new wastewater discharge permit replacing a previous permit.

**Section 42.** Section 51.094 of the Hermiston Municipal Code is amended to read:

#### 51.094 RESPONSIBILITY OF PERMIT HOLDER.

(A) Sampling facilities. When required by the City ~~city~~, the IU shall provide and operate at the permit holder's ~~users~~ expense, a monitoring facility, together with necessary meters and other appurtenances to allow inspection, sampling and flow measurement of each industrial sewer discharge to the City ~~city~~. The monitoring facility shall be approved by the ~~city~~ City prior to being installed. When possible, the sampling site shall be located outside the building or structure, on the permit holder's ~~user's~~ premises and be easily accessible from a public road, street, parking lot or paved area. The permit holder ~~user~~ shall maintain safe access to the sampling site at all times.

- (1) There shall be ample room in or near the facility to allow for accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the permit holder, as directed in the ~~city~~ City approved permit.
- (2) All sampling facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. The sampling facility may be revised, but the ~~city~~ City must approve these revisions. All sampling facility plans must

be submitted to and approved by the ~~city~~ City prior to construction, regardless of whether or not the standard details are used. Construction shall be completed within 60 days of ~~city~~ City approval or within ten days of receipt of permit by the permit holder, except as otherwise approved by the City ~~city~~.

(B) Operation and maintenance. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, the owner, at the permit holder's ~~his~~ expense, shall maintain then continuously in satisfactory and effective operation.

(C) Plans review.

(1) All plans for pretreatment facilities, interceptors, etc., required pursuant to ~~these~~ this subchapter or rules shall be approved by the ~~city~~ City prior to implementation. Approval of pretreatment facilities, interceptors, etc., by the City ~~city~~, does not relieve the owner or permit holder of the responsibility to install and operate equipment necessary to perform the required function and to meet all permit requirements.

(2) The permit holder shall maintain records of all pretreatment facilities which reflect routine maintenance check dates, calibration, cleaning, waste removal dates, manifests of wastes removed from the site and the means of disposal of accumulated wastes.

(3) Approval by the ~~city~~ City of plans under this ~~section~~ subchapter does not represent assurance that the facilities will meet a discharge permit.

(D) Control of discharge. It shall be the responsibility of the permit holder or user to control the discharge into the ~~city~~ City sewerage system or any private or side sewer which drains into the ~~city's~~ City's system so as to comply with this subchapter and the requirements of any applicable wastewater discharge permit issued pursuant to the provisions of this subchapter. Notwithstanding an permit conditions, the ~~city~~ City may (after notification to the permit holder or user) order that any discharge which may appear to present an imminent endangerment to the health and welfare of persons be immediately and effectively halted from entering the collection system.

(E) IU facility inspections. The ~~city~~ City may inspect the facilities of any IU to determine compliance with the requirements of ~~city~~ City rules and regulations. The ~~user~~ permit holder shall allow the ~~city~~ City or its representatives to enter upon the premises ~~of the user~~ at all reasonable hours and without prior notification by the City, for the purposes of inspection, sampling, and records examination and copying. The ~~city~~ City shall have the right to set upon the ~~user's~~ permit holder's property the devices as at necessary to conduct sampling, inspection, compliance monitoring and/or metering operation:

(1) Where a permit holder ~~user~~ has security measures in force which require proper identification and clearance before entry into their premises, the ~~industrial user~~ permit holder shall make necessary arrangements with its security guards so that, upon presentation of suitable identification personnel from the City ~~city~~, state, and USEPA will be permitted to enter, without delay, for the purposes of performing their specific

responsibilities.

(2) The ~~City~~ City, state, and USEPA shall have the right to set up or require installation of, on the ~~permit holder's~~ industrial user's property, the devices as are necessary to conduct sampling, and/or metering of the ~~user's~~ permit holder's operations.

(3) The ~~City~~ City may require the ~~permit holder~~ industrial user to install monitoring equipment, as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in safe and proper operating condition by the ~~permit holder~~ industrial user at ~~its~~ the industrial user's expense. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.

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

(5) Unreasonable delay in allowing ~~City~~ City personnel access to the ~~industrial user's~~ permit holder's premises shall be a violation of this subchapter.

(F) Sampling requirements. Except as otherwise expressly stated in a permit, sampling shall be performed according to this ~~subsection~~ division. If an ~~IU~~ permit holder subject to self-monitoring and reporting requirements as set forth in ~~their~~ its ~~City~~ City discharge permit, monitors any pollutant more frequently than required in the discharge permit, using the procedures prescribed in 40 CFR 403.12(g)(4) ~~and (5)~~, the results of this monitoring shall be included in the ~~permit holder's~~ IU's reports.

(1) SIUs shall submit to the ~~City~~ City at least once every six months or ~~a~~ as otherwise specified by the ~~City~~ City, a description of the nature, concentration and flow of the pollutants required to be reported to the ~~City~~ City. These reports shall be based on sampling and analysis performed in the period covered by the report and performed in accordance with the techniques described in 40 CFR Part 136.

(2) The IU shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the ~~City~~ City) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of the operations.

(3) A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organics. For all other pollutants, a 24-hour composite sample must be obtained through flow-proportional composite sampling techniques when feasible. The ~~City~~ City may waive flow-proportional composite sampling for any IU that demonstrates that flow-proportional sampling is unfeasible. In the case samples may be obtained through time-proportional composite sampling techniques through a minimum of four grab samples where ~~demonstrated~~ the user demonstrates that this would provide a



representative sample of the effluent being discharged.

(4) The IU shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this division. Samples shall be taken immediately downstream from pretreatment facilities if such exists or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the IU shall measure the flows at concentrations necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e) in order to evaluate compliance with the pretreatment standards. Where alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit and supporting data shall be submitted to the City ~~city~~.

(5) Where 40 CFR Part 136 does not contain sampling analytical techniques for the pollutant in question, or where the USEPA Administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling at analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the ~~city~~ City or other persons approved by the USEPA Administrator. This sampling and analysis may, upon approval by the ~~city~~ City may be performed by the ~~city~~ City in lieu of the industrial user.

(G) Special agreements. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the ~~city~~ City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the ~~city~~ City for treatment, subject to payment therefore, buy the industrial concern.

(H) Records retention. All users subject to this subchapter shall retain and preserve for less than three years, all records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analysis made by or in behalf of a user in connection with its discharge. All records shall be subject to review by the City ~~city~~. The retention period may be extended beyond three years of the request of the City ~~city~~. All records which pertain to matters which are the subject of an enforcement or litigation activities brought by the ~~city~~ City pursuant hereto shall be retained and preserved by the user until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

(I) Wastewater permit renewals. SIUs may be required to apply for permit renewals within 90 days prior to the expiration date in the existing wastewater permit.

**Section 43.** Section 51.095 of the Hermiston Municipal Code is amended to read:

#### 51.095 REPORTING REQUIREMENTS.

(A) General requirements.

(1) All measurements, tests and analysis of the characteristics of wastewater to which

reference is made in this section shall be in accordance with 40 CFR Part 136 or alternate protocols approved by EPA Region 10 Administrator or NPDES permit- specific basis and shall be determined at the control manhole provided, or upon testing of suitable samples taken at the control manhole.

(2) IUs may be required to submit test results from samples of their wastewater discharged or other appropriate information requested by the ~~city~~ City on a routine and continuing basis for any or of the following reasons:

- (a) To comply with the terms and provisions of 40 CFR Part 403.12;
- (b) If requested by any applicable state or local public agencies;
- (c) If required to determine monthly sewer service charges as described by applicable ~~city~~ City ordinance;
- (d) If deemed necessary by the ~~city~~ City for the proper treatment, analysis or control wastewater discharges. The IU shall bear the costs of any tests and reports. The ~~city~~ City shall have the right to enforce the requirements of 40 CFR 403.12. When deemed necessary by the City ~~city~~, an IU may be required to obtain, install, operate and maintain an automatic sampler and/or analyzer to monitor its industrial waste discharges; or
- (e) If required by the discharge permit.

(B) User's responsibility. It is the IU's responsibility to keep informed of all state and federal wastewater analysis and reporting requirements. Any failure to do so shall not excuse the permit holder from compliance with the requirements.

(C) Discharge reports. Discharge reports shall contain all results of sampling and analysis of the discharge, including the flow, the nature and concentration of pollutants, and production and mass where required by the City ~~city~~.

(D) Baseline monitoring report.

(1) Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision on a category determination under 40 CFR 403.6 (a)(4), whichever is later, existing users currently discharging to or proposing to discharge to the ~~city~~ City shall submit to the ~~city~~ City a report containing the information listed in division (E) below.

(2) At least 90 days prior to commencement of their discharge, new sources, including existing users which have changed their operation or processes so as to become new sources, shall be required to submit to the ~~city~~ City a report which contains the information listed in division (E). A new source shall also report the method it intends to use to meet applicable pretreatment standards and give estimates of its anticipated flow

and quantity of pollutants discharged.

(E) Information required. The information required by this section includes:

- (1) Identifying information. The user shall submit the name and address of the facility, including the name of the operator and owners;
- (2) Permits. The user shall submit a list of any environmental control permits held by or for the facility;
- (3) Description of operation. The user shall submit a brief description of the natural average rate of production, and standard industrial classifications of the operations carried out by the industrial user. This description should include a schematic process diagram which indicates points of discharge to the system from the regulated processes;
- (4) Flow measurement. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the system from regulated process streams and other streams as necessary to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
- (5) Measurement of pollutants.
  - (a) The industrial user shall identify the categorical pretreatment standard applicable to each process;
  - (b) In addition, the IU shall submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and ~~long-term~~ long-term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be performed in accordance with procedures set out in 40 CFR Part 136, or an ~~city~~ City approved equal; and
  - (c) A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. All other pollutants will be measured by composite samples obtained through flow proportional sampling technique. If flow proportional composite sampling is unfeasible samples may be obtained through time proportional sampling techniques or through four grab samples if the user proves the samples will be representative of the discharge.

(F) Report on compliance with categorical deadlines. Within 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 in the sewer system, any industrial user subject to pretreatment standards and requirements shall submit to the ~~city~~ City a report indicating the nature and concentration of all pollutants in the waste stream, as required by division (D) above.

(1) For IUs subject to equivalent mass or concentration limits established by the ~~city~~ City in accordance with 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long term production rate. For all other IUs subject to categorical pretreatment standards expressed in terms of allowable pollutants discharge per unit of production or other measure of operation, this report shall include the IU's actual production during the appropriate sampling period.

(2) This report shall also contain the average and maximum daily flows for the process waste streams, and whether the applicable pretreatment standards are being met on consistent basis. If they are not being met on a consistent basis, the report shall identify what additional pretreatment or operation and maintenance is necessary to bring the industrial user into compliance. This report shall be signed by an authorized representative of the industrial user and certified to by a qualified professional.

(G) Schedule of compliance. If the industrial user is required to install additional pretreatment or provide additional operation and maintenance, ~~he or she~~ the user will be required to submit a schedule.

(1) The schedule shall contain increments of progress in the form of milestone dates for commencement and completion of major events leading to the construction and operations of additional operation and maintenance or pretreatment (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, etc.). No increment of progress shall exceed nine months.

(2) The industrial user shall submit a progress report to the ~~city~~ City including, at a minimum whether or not it complied with the increment of progress to be met on the date and if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the industrial user to return the construction to the schedule established. This progress report shall be submitted no later than 14 days following each date in the schedule and the final date of compliance. In no event shall more than nine months elapse between the progress reports to the City ~~city~~.

(3) If compliance milestone dates are not met or reports not submitted when due, the ~~city~~ City may take appropriate enforcement action for lack of satisfactory progress toward compliance. (See §51.096.) Schedules of compliance may be inserted into an IU's discharge permit, as provided in this subsection ~~division~~ (G).

(H) Periodic compliance reports. Any IU subject to categorical pretreatment standards, or subject to sampling, testing and reporting schedules set out in the user's permit shall submit to the ~~city~~ City all reports required indicating the nature of the effluent discharged since the last reporting period.

(1) The report shall include, but is not limited to, a record of the concentrations (and mass limited in the permit) of the limited pollutants that were measured and a record of

all pH and flow measurements that were taken.

(2) If an industrial user subject to the reporting requirements listed above monitors any pollutant more frequently than required by the ~~City~~ City, the results of this monitoring shall be included in the report.

(I) Reporting of violation/resampling requirement. If sampling performed by an industrial user indicates a violation, the user shall notify the ~~city~~ City within 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~~ City within 30 days after becoming aware of violation.

(J) Slugload reporting.

(1) Dischargers shall notify the ~~city~~ City immediately upon occurrence of a "slug" or accidental discharge of substances prohibited by this subchapter. The notification shall include the location of discharge, date and time thereof, type of waste, concentration and volume, corrective action and steps being taken to reduce any adverse impact.

(2) Any discharger who discharges a "slug(s)" of prohibited materials shall be liable for any expense, loss or damage to the POTW, in addition to the amount of any fines imposed on the ~~city~~ City under state or federal law, and may also incur monetary penalties by the City ~~city~~.

(K) Change in discharge. The IU shall report to the ~~city~~ City any changes, permanent or temporary to the permittee's premises or operations that may result in change of the quality or volume of the wastewater discharge.

(1) Changes in the discharge involving the introduction of a waste stream(s) not included in or covered by the discharge permit application shall be considered a new discharge requiring completion of an application as described under §51.093. Any reporting shall not be deemed to exonerate the permittee from liability for violations of the subchapter.

(2) All industrial users shall promptly notify the ~~city~~ City in advance of any proposed anticipated change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(p).

(L) Notification of significant production change.

(1) In accordance with 40 CFR 403.6 ~~(e)~~ (e)(7), any IU operating under a ~~city~~ City permit incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the ~~city~~ City within two business days after the IU has a reasonable basis to know that the production level will significantly change within the next calendar month.

(2) Any IU not notifying the ~~city~~ City of 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.

(M) Industrial user hazardous waste reporting. Industrial users shall notify the ~~city~~ City (POTW), 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. 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).

(N) TTO reporting. Those industries which are required by EPA to eliminate and/or reduce the levels of toxic organics (TTO's) discharged into the sewer system must follow the federal effluent guidelines for that industry.

(O) Certification of all reports. All reports submitted by significant industrial user shall include the certification statement defined in 40 CFR 403.6 (a)(2)(ii) and signed by the appropriate official as designated in 40 CFR 403.12(l).

**Section 44.** Section 51.096 of the Hermiston Municipal Code is amended to read:

#### 51.096 ADMINISTRATIVE AND JUDICIAL ENFORCEMENT.

(A) Industrial user violation process. If the ~~city~~ City determines that a violation by an industrial user has occurred or is taking place, a representative of the ~~city~~ City shall make a reasonable effort to notify the user of the violation. All violations including the first violation shall receive a written notice of violation and may also incur a monetary penalty.

(1) All written notices of violations shall describe the violation and any potential penalty (monetary or additional pretreatment). The written notice may further require that response to the violation be submitted to the ~~city~~ City within ten days ~~a ten-day time period~~.

(2) If a written notice of violation requires submittal of a response, the response shall include an explanation of the violation, a plan for the satisfactory correction and prevention of future violations, and specific corrective or preventive action submission of this plan in no way relieves the user of liability for any violation occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the ~~city~~ City to take emergency action without first issuing a notice of violation.

(B) Violation.

(1) A violation of limitations established under §51.092 of this subchapter, any applicable federal, state or ~~city~~ City pretreatment standards, or specific requirements of a discharge permit shall constitute a violation of this subchapter and shall be cause for

enforcement action by the ~~City~~ City, including but not limited to citation or levying of administrative penalties described in this section, regardless of the intent of the user. Each day of a continuing violation shall constitute a separate offense for purposes of computing the applicable penalty.

(2) Whenever the ~~city~~ City finds that any IU has violated or is violating this subchapter, wastewater permit or order issued hereunder, or any other pretreatment requirement, the ~~city~~ City shall cause to be served upon the IU a written notice of violation. The notice of violation shall be delivered to the user's premises or be sent by regular mail to the address of the permit holder on record with the City ~~city~~. It may be sent together with the industrial user's monthly billing notice.

(C) Permit parameters.

(1) For the maximum daily allowable concentration, if the concentration of any single sample (whether grab or a sample within a series) exceeds the limitations, a violation will have occurred;

(2) For the monthly average allowable concentration, if the average of all sample(s) (grab or composite) taken exceeds the limitation, a violation will have occurred. One sample collected may constitute a monthly average violation.

(D) Additional violation parameters. Included, but are not limited to the following:

(1) For noncompliance with any special reporting requirements established by permit, written request of the City ~~city~~, or as specified by general federal pretreatment standards (40 CFR 403.12);

(2) Pollutants prohibited in §51.092 are discharged into the system;

(3) Failure to apply for and obtain a permit prior to discharge of industrial wastewater in the system.

(E) IU notifying ~~city~~ City of violation. If sampling performed by an industrial user indicating a violation, the industrial user shall notify the ~~city~~ City within 24 hours of becoming aware of the violation. The user shall also re-sample and report the results within 30 days of becoming away of violation pursuant to 40 CFR 403.12(g)(2). Re-sampling must continue until it is evident the discharge is within compliance.

(F) Affirmative defense. The ~~city~~ City does not recognize the "affirmative action" defense defined in the federal regulations.

(G) Consent orders. The ~~city~~ City may enter into consent orders, assurance of volunteer compliance, or other similar documents establishing an agreement with the IU responsible for the noncompliance. Orders will include specific action to be taken by the IU to correct the noncompliance within a time period also specified by the order. Consent orders shall have the



same force and effect as administrative orders and upon issuance, orders shall be judicial enforceable.

(H) Show cause hearing.

(1) The ~~city~~ City may order any IU which causes or contributes violation(s) of this subchapter, wastewater permits or orders issued hereunder or any other, pretreatment requirement, to appear before the City ~~city~~ or the code Hearings Officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the IU specifying the time and place for the hearing, the proposed enforcement action, the reasons for the action, and an order that the IU show cause why this proposed enforcement action should not be taken.

(2) The notice of the hearing shall be served personally or by registered mail (return receiving requested) at least ten days prior to the hearing. The notice may be served on any authorized representative of the IU. Whether or not the IU appears as notified, immediate enforcement action may be pursued following the hearing date.

(I) Compliance orders.

(1) When it is found ~~the city finds~~ that an IU has violated or continues to violate the subchapter, permits or orders issued hereunder, or any other pretreatment requirement, an order may be issued to the IU responsible for the discharge directing that, following a specific time period, sewer service shall be discontinued unless adequate treatment facilities, device or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements as might be reasonably necessary and appropriate to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer.

(2) In addition to compliance orders, ~~the city may require~~ additional self-monitoring for at least 90 days may be required after consistent compliance has been achieved, after which time the self-monitoring conditions in the discharge permit shall control.

(J) Significant noncompliance. Significant noncompliance is deemed to have occurred if a violation meets one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined as those in which 66% or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same polluted parameter;

(2) Technical review criteria (TRC) violations are defined here as those in which 33% or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC. (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2

for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the ~~city~~ City determines has caused alone or in combination with other discharges, interference or pass through (including endangering the health of ~~city~~ City personnel or the general public);

(4) Any discharge of a pollutant that has caused imminent endangerment to human health welfare or to the environment or has resulted in the ~~city's~~ City's exercise of its emergency authority, as defined in 40 CFR 403.8 (f)(1)(vi)(B), to halt or prevent a discharge;

(5) Failure to meet, within 90 days after the scheduled date, a compliance schedule contained in a local control mechanism or enforcement order, for starting construction, completing construction or attaining final compliance;

(6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports (BMR), 90-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; and

(8) Any other violation or group of violations which the ~~city~~ City determines will adversely affect the operation and implementation of the local pretreatment program.

(K) Publication of significant violators. A list of all industrial users which were in significant noncompliance (as defined above) during the 12 previous months, shall be annually published by the ~~city~~ City in the largest daily newspaper, published in the City municipality in which the city is located, summarizing the enforcement actions taken against users during the previous 12 months.

(L) Other penalties.

(1) If the violation is not corrected within a reasonable period of time determined by the City ~~city~~, or as specified in a consent order or compliance order, or if there appears to be indications of repetition of the violation, a citation or enforcement proceeding may be initiated. ~~notice of civil penalties may be issued as described in the applicable city ordinance. The city may seek or assess a specific fine violation not to exceed \$1,000 per day per violation of pretreatment standards and~~ The City may impose an applicable compliance schedule. Compliance schedules may not extend the compliance date beyond any applicable federal deadlines.

(2) Notwithstanding any other provision of this subchapter, the ~~city~~ City may, in its discretion and at any time, impose discharge permit limitations penalties/charges or seek civil and criminal penalties pursuant to applicable ~~city~~ City ordinance.

(M) Cease and desist orders. When the ~~city~~ City finds that an industrial user has violated or continued to violate this subchapter, any permit or order issued hereunder, or any other pretreatment requirement, the ~~city~~ City may issue an order to the industrial user directing it to cease and desist all violations and directing the user to:

- (1) Immediately comply with all requirements; or
- (2) Take appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(N) Administrative appeals of enforcement actions.

(1) An industrial user desiring to dispute any fine, penalty or other administrative enforcement action under this subchapter must, within ten days of receipt of notice of any action, file a written appeal pursuant to Chapter 136, ~~request for review with the City Council and the city administration.~~

(2) The request for review shall state any facts and mitigating circumstances which the IU wishes to be considered. ~~Upon receipt of a request for review, the Council and city administration shall review the requests and any other information available. They shall render a written decision within 15 working days of receipt.~~ The review authority ~~Council or city administration~~ may sustain, reduce or eliminate any fine, and may modify any enforcement action upon a finding that:

- (a) The original action of the ~~city~~ City in imposing a fine or other enforcement action was based upon a substantial error of fact, which shall be stated;
- (b) The original action of the ~~city~~ City was based upon improper application of ~~city~~ City ordinance or regulations to the facts, in which case the correct application shall be stated; or
- (c) The user has presented mitigating facts or circumstances to the ~~city~~ City which would justify modification of the original order.

(3) If the review authority ~~Council or city administration~~ finds that the facts and application of this subchapter were correct, and mitigating circumstances do not justify modifying the original action, the action shall be sustained, ~~that shall sustain that action.~~

(O) Emergency suspensions. The ~~city~~ City may suspend the wastewater permit of an industrial user, whenever suspension is necessary in order 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, interferes with the operation of the municipal wastewater system or which present or may present an endangerment to the environment.

- (1) Any industrial user notified of a suspension of its wastewater permit shall

immediately stop or eliminate its discharge. In the event of an industrial user's failure to immediately comply voluntarily with the suspension order, the ~~city~~ City may take steps as it deems necessary, including immediate severance of the sewer connection, to prevent minimize damage to the system, its receiving stream, or to any person. The ~~city~~ City shall allow the industrial user to recommence its discharge when the user has demonstrated the satisfaction of the ~~city~~ City that the period of endangerment has passed, and no repetition is likely, unless termination proceedings set forth in §51.096 are initiated by the City ~~against the user~~.

(2) An industrial user which causes or permits any discharge presenting immediate endangerment to the public or the environment 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~~ City prior to the date of any show cause or termination hearing discussed elsewhere in this subchapter.

(P) Termination of permit.

(1) In addition to all other penalties and remedies in the subchapter, the ~~city~~ City may terminate the permit of any industrial user. Violations of the conditions of this subchapter, wastewater permits or orders issued hereunder is subject to permit termination. Justification for permit termination include, but are not limited to the following:

- (a) Violation of permit conditions;
- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge; and
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(2) Prior to terminating a permit, the ~~city~~ City shall notify the permittee of its proposed termination. The premittee may appeal the termination as provided in chapter 136, which appeal shall be expedited as reasonably practicable. ~~A show cause opportunity under other sections identified in this subchapter will be offered.~~

(Q) Judicial enforcement remedies.

(1) Notwithstanding any other provision, ~~W~~ w whenever an industrial user has violated or continues to violate the provisions of this subchapter, permits or orders issued hereunder, or any other pretreatment requirements, the City ~~city~~, may declare such violation to be a nuisance or petition the courts for the issuance of temporary or permanent injunction, as may be appropriate, which restrains or compels the specific performance of the

wastewater permit, order or other requirement imposed by this subchapter on activities of the industrial user.

(2) Other action as may be appropriate for legal and/or equitable relief may also be sought by the City city. ~~The court shall grant an injunction without requiring a showing of a lack of an adequate remedy at law.~~

**Section 45.** Section 51.097 of the Hermiston Municipal Code is amended to read:

51.097 ADDITIONAL PROVISIONS CONCERNING INDUSTRIAL USERS.

(A) Miscellaneous information. The ~~city~~ City may request at any time reports, data or information from any user to ensure compliance with all applicable laws by the ~~city~~ City and the user. The user shall promptly provide the ~~city~~ City with any reports, data or information requested.

(B) Warrants. The City may seek an administrative warrant, including but not limited to an inspection warrant or seek a search warrant as provided in Chapter 139 or otherwise by law.  
~~Inspection warrants. Judges and magistrates authorized to issue search warrants may upon application of the city, issue an inspection warrant pursuant to this section. The warrant shall be allowed whenever the city has requested of the property owner or his/her agent access to any premises to ascertain information necessary to carry out the provisions of this subchapter and the request has been denied. Information necessary to carry out these provisions shall include, but not be limited to, verification of owner-supplied data.~~

(C) Confidential information.

(1) Information and data on an industrial user obtained from reports, questionnaires, permit application, permits and monitoring programs, and from ~~city~~ City inspection and sampling activities shall be available to the public without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the ~~city~~ City that the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state laws.

(2) Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2,302 will not be recognized as confidential information and will be available to the public without restriction unless prohibited by law.

(3) When requested and demonstrated by the industrial user finishing a report that the information should be held confidential and the City may keep the information confidential as provided by law, the portions of a report which might disclose a trade secret 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 this subchapter, the National Pollutant Discharge Elimination System (NPDES) program, and enforcement proceedings involving the person furnishing the report.

(D) Pretreatment charges and fees. The ~~city~~ City may adopt reasonable charges and fees for reimbursement of costs of setting up and operating the ~~city's~~ City's pretreatment program which may include:

- (1) Fees for permit applications including the cost of processing applications;
- (2) Fees for monitoring, inspection and surveillance procedures including the cost of reviewing, monitoring reports submitted by the industrial user;
- (3) Fees for reviewing and responding to accidental discharge procedures and construction;
- (4) Fees for filing appeals;
- (5) Other fees as the ~~city~~ City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Chapter ~~subchapter~~ and are separate from all other fees, fines and penalties chargeable by the City ~~city~~.

**Section 46.** Section 51.110 of the Hermiston Municipal Code is amended to read:

#### ADMINISTRATION AND ENFORCEMENT

##### 51.110 POWERS AND AUTHORITY OF INSPECTORS.

(A) The ~~city administration or other~~ City's duly authorized employees ~~of the city~~ bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this Chapter ~~chapter~~. City employees denied entry may obtain an administrative warrant or a search warrant. The ~~city administration or his representatives~~ City shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers of waterways or facilities for waste treatment.

(B) While performing the necessary work on private properties, as defined in this ~~chapter~~ Chapter the City ~~city administration~~ or duly authorized employees of the ~~city~~ City shall observe all safety rules applicable to the premises established by the property owner or person in charge of the property, company; and such person ~~the company~~ shall be held harmless for injury or death to the ~~city~~ City employees and the ~~city~~ City shall indemnify the company against loss or damage to its property by ~~city~~ City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as may be caused by negligence or failure of the company to maintain safe conditions and within the limits of the Oregon Tort Claims Act.

(C) The ~~city administration~~ City or other duly authorized employees of the ~~city~~ City bearing proper credentials and identification shall be permitted to enter onto any City or publicly owned

easement ~~all private properties through which the city holds a duly negotiated easement~~ for the purposes of but not limited to inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the ~~duly negotiated~~ easement pertaining to the private property involved.

**Section 47.** Section 51.111 of the Hermiston Municipal Code is amended to read:  
51.111 NOTICE OF VIOLATION.

Any person found to be violating any provision of this ~~Chapter~~ chapter, except provisions on protection from damage, and except for the provisions of §§51.090 through 51.097, or as otherwise provided in this Chapter may be served with a citation or complaint as provided in Chapter 136 or 138 or by law. Nothing in this section precludes the City from first issuing a notice and opportunity to resolve the violation or limits the authority of the City to declare the violation to be a nuisance or to pursue any other remedy provided in this Chapter or provided by law. ~~shall be served by the city with written notice stating the nature of the violation and providing a time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations.~~

**Section 48.** Section 51.112 of the Hermiston Municipal Code is amended to read:  
51.112 LIABILITY FOR DAMAGE.

Any person violating any of the provisions of this ~~chapter~~ Chapter shall become liable to the ~~city~~ City for any expense, loss or damage occasioned the ~~city~~ City by reason of the violation.

**Section 49.** Section 51.113 of the Hermiston Municipal Code is amended to read:  
51.113 DISCONTINUANCE OF SERVICE FOR VIOLATION.

The ~~city~~ City may discontinue service for failure to observe all terms of this ~~Chapter~~ chapter. Any costs incurred for discontinuation will be paid by the user in accord with this Chapter ~~chapter~~.

**Section 50.** Section 51.114 is added to the Hermiston Municipal Code to read:  
51.114 AUTHORITY TO ADOPT RULES.

The City Council may by resolution, adopt such rules and regulations as the Council determines reasonable and necessary to implement or supplement this Chapter. Except as provided otherwise in such rules and regulations, violation of a rule or regulation shall constitute a violation of this Chapter.

**Section 51.** Section 51.999 of the Hermiston Municipal Code is amended to read:  
51.999 PENALTY.



(A) Any person found to have violated ~~who shall continue any violation of the provisions of §§51.002 through 51.076~~ or a permit, approval or rules adopted thereunder, including any violation beyond the time limit granted for compliance by the City, if any, provided in §51.111 commits a Class ~~B~~ A violation. ~~Each day in which any violation shall continue shall be deemed a separate offense.~~

(B) Any ~~person~~ user ~~which~~ is found to have violated any provision of §§51.090 through 51.097, permits and orders issued thereunder, or any other pretreatment requirement commits a Class ~~B~~ A violation ~~shall be fined in an amount designated by the city, if not specified, up to \$1,000 may be assessed per violation.~~ Fines shall be assessed on a per violation, per day basis. Fines assessed may take into consideration, the magnitude of the violation and the willingness of the industrial user to return to compliance. In the case of monthly or other long-term average discharge limits, fines may be assessed for each business day during the period of violation.

(1) Fines may be collected by adding fine amounts to ~~Assessments may be added to the user's next scheduled sewer service charge and the city~~ City shall have other collection remedies as may be available for fines ~~other service charge fees.~~

(2) Unpaid charges, fines, and penalties together with interest therefrom shall constitute a lien against the individual user's property and may constitute cause for revocation of ~~the~~ an industrial user's discharge permit. If an industrial user fails to file a timely and complete request to review enforcement action, the user shall be deemed to have consented to pay the fine assessed and to comply with all other terms of the enforcement action.

(C) Any industrial user ~~which~~ found to have committed the same or substantially the same violation within one year or ~~has violated or continues to violate §§51.090 through 51.097, any order or permit thereunder, or any other pretreatment requirement shall be liable to the city for a maximum civil penalty allowed under the laws of the state, but not less than~~ commits a Class 'A' violation \$1,000 per violation per day. Fines shall be assessed on a per violation, per day basis. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each business day during the period of this violation.

~~(1) The city may recover reasonable attorney's fees, court costs, and other expense associated with enforcement activities including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.~~

~~(2) In determining the amount of civil liability, the court shall take into account relevant circumstances, including, but not limited to, the extent of harm caused by the violation, co-effective actions by the industrial user, the compliance history of the user and any other factors as justice requires.~~

(D) (3) Where appropriate, the ~~city~~ City may request that the review authority or court impose ~~accept~~ mitigation projects in lieu of the payment of civil penalties where the project provides a valuable service to the ~~city~~ City and the industrial user's expense in undertaking the project is at

least 100% ~~150%~~ of the ~~civil~~ penalty.

(E) Nothing in this section precludes the City from declaring the violation to be a public nuisance, pursuing injunctive or other relief, bringing an action for damages or pursuing any other remedy provided by law.

~~(D) — Any industrial user who willfully or negligently violates any provisions of §§51.090 through 51.097, any orders or permits issued thereunder, or any other pretreatment requirement shall, upon conviction, be sentenced to a specific fine violation not to exceed \$1,000.~~

~~(1) — Any industrial user who knowingly makes any false statement, representations, or certification in any application, record report, plan, or other documentation filed or required to be maintained pursuant to §§51.090 through 51.097 or wastewater permit, or who falsifies, tampers with or knowingly renders inaccurately any monitoring device or method required under this subchapter shall, upon conviction, be sentenced to a specific fine violation not to exceed \$1,000.~~

~~(2) — In the event of a second conviction, the user shall be punishable by a specific fine not to exceed \$3,000 per violation per day.~~

**Section 52. Effective date.** This ordinance shall take effect on the 30<sup>th</sup> day after its adoption.

ADOPTED by the Common Council this 23<sup>rd</sup> day of November 2020.

SIGNED by the Mayor this 23<sup>rd</sup> day of November 2020.

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Dr. David Drotzmann, Mayor

ATTEST:

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Lilly Alarcon-Strong, CMC City Recorder