

# **SPECIAL WASTEWATER SERVICE AGREEMENT**

**CITY OF YAKIMA, TERRACE HEIGHTS SEWER  
DISTRICT AND THE CITY OF MOXEE**

# **SPECIAL WASTEWATER SERVICE AGREEMENT**

## ***City of Yakima, Terrace Heights Sewer District and the City of Moxee***

### ***Agreement for Wastewater Services within the Service Areas of Terrace Heights and Moxee***

This Special Wastewater Service Agreement is entered into this 25th day of September 2014, and shall become effective January 1, 2015, by and between the City of Yakima ("City"), the Terrace Heights Sewer District ("Terrace Heights") and the City of Moxee ("Moxee") and referenced individually in this Agreement as "Party" and collectively as "Parties."

The purpose of this Agreement is to establish the terms and conditions necessary in allowing the discharge of wastewater from the service area of Moxee through Terrace Heights to the City's Regional Wastewater Treatment Plant for wastewater treatment and disposal service; including regulatory requirements and enforcement by the City's Pretreatment Program.

This Agreement supersedes the Special Agreement entered into on September 10, 2006 between the City, Terrace Heights, and Moxee for providing wastewater services and enforcement within the service areas of Terrace Heights and Moxee.

Any Party's provision of wastewater service to retail customers outside its respective city limits but within its urban growth area, or in the case of Terrace Heights its designated service territory, shall be in accordance with the Growth Management Act, chapter 36.70A RCW, and the related requirements of Yakima County.

## **1.0 RECITALS.**

- A. The City owns and operates a wastewater treatment system and administers a delegated Pretreatment Program to prevent the discharge of waste that would cause interference with, or pass through of, its wastewater treatment system in accord with applicable Federal, State and Local regulations.
- B. Terrace Heights owns and operates a wastewater collection system, and utilizes the City's wastewater treatment system to treat wastewater collected by the Terrace Heights system as a Wholesaler User. The 3-Party Wholesale Service Agreement (3-Party Agreement) for Wastewater Treatment and Disposal Service by and between the City, City of Union Gap and Terrace Heights governs various aspects of the use of the City's wastewater treatment system by Terrace Heights.
- C. Terrace Heights agrees to accept and be responsible for the wastewater collected from the service area of Moxee and conveyed to the City's Regional Wastewater Treatment Plant (WWTP). The City agrees to provide treatment and disposal for such wastewater at the City's WWTP, pursuant to the capacity allocation held by Terrace Heights and subject to all regulatory requirements in accordance with the 3-Party Agreement.
- D. Moxee is recognized as an Extra-Jurisdictional Customer of Terrace Heights. No capacity allocation to the City's WWTP is granted to Moxee under this Agreement. As specified in Section 2.2.4 of the 3-Party Agreement, usage and loading from an Extra-Jurisdictional Customer shall be incorporated into and counted against the Capacity Allocation of the Wholesale User with which the Extra-Jurisdictional Customer has an agreement.

## **2.0 PRETREATMENT**

- A. The City is a fully delegated Pretreatment Program and is required to control such discharges from all Industrial Users of its wastewater treatment system pursuant to requirements set out in 40 CFR Part 403, Chapter 90.48 RCW, Chapters 173-208 WAC, 173-216 WAC, 173-201A WAC, and 173-240 WAC and the National Pollution Discharge Elimination System Permit issued by Ecology to the City ("NPDES Permit"), all as they may be amended from time to time, to prevent the discharge of waste that could cause interference with the operations of the wastewater treatment system or pass through in violation of the NPDES Permit.
- B. Owners and operators of facilities located in Moxee currently contribute discharges of pollutants from non-domestic sources that have the potential to upset or interfere with the City's WWTP and are therefore regulated under Section 307(b), (c) or (d) of the Clean Water Act. Such facilities are classified as Minor Industrial Dischargers (MIUs) in accordance with Section 7.65.020 of the City of Yakima's Municipal Code (YMC) or Significant Industrial Dischargers (SIUs) in accordance with Section 7.65.020 YMC and 40 CFR 403.3(t).

- C. Moxee shall adhere to the entirety of Sections 7.0 and 8.0 of the 3-Party Agreement; meeting all Pretreatment regulatory and reporting requirements of its discharge. As a customer of Terrace Heights, Moxee shall be held to the same standards and requirements as Terrace Heights. Failure to do so may subject Moxee to any and all enforcement remedies available to the City in accordance with YMC Chapter 7.65 Sewer Use and Pretreatment Regulations, the 3-Party Agreement, and applicable law required to operate a fully delegated Pretreatment Program in accordance with 40 CFR 403.8(f)(1), to enforce the requirements of sections 307 (b) and (c) and 402 (b)(8) of the Clean Water Act and any regulations implementing those sections in the event that the City finds that wastewater discharged from Moxee has violated or is violating the Pretreatment Standards and requirements of the City Sewer Use Ordinance.
- D. Terrace Heights shall be held responsible for the compliance of Moxee, their Extra-Jurisdictional customer, and the wastewater discharged into the Terrace Heights' wastewater collection system.

### **3.0 EXTRA-JURISDICTIONAL NEW INDUSTRIAL USERS**

Before an Industrial User located outside the jurisdiction of Moxee is allowed to discharge into Moxee's sewer system, Moxee, Terrace Heights and the City shall enter into an agreement with the jurisdiction in which such Industrial User is located, if such discharge is approved by the City. Such agreement must include terms that are substantially equivalent to this Special Wastewater Service Agreement and must be fully secured prior to a discharge from any Industrial User outside the jurisdiction of Moxee.

### **4.0 Wastewater Costs**

Billing of costs associated with the flow, BOD, and TSS loading of wastewater discharged by Moxee shall be resolved between Terrace Heights and Moxee.

### **5.0 Shared Infrastructure**

Infrastructure utilized jointly between Terrace Heights and Moxee to convey wastewater to the City's WWTP shall be the sole responsibility of Terrace Heights and Moxee.

### **6.0 ENFORCEMENT AND DISPUTE RESOLUTION**

- A. The City shall have all enforcement remedies available to it under the City Sewer Use Ordinance, this Special Wastewater Agreement and applicable law in the event that the City finds that wastewater discharged from Moxee's sewer system has violated or is violating the pretreatment standards and requirements of the City Sewer Use Ordinance.
- B. The Parties shall seek to resolve disputes concerning this Special Wastewater Service Agreement and its interpretation that may arise between the City and Terrace Heights or Moxee, from the date hereof until the termination of this Special Wastewater Service Agreement, at the lowest possible level and as promptly as possible. In the event that the Parties' efforts to resolve such a dispute are not effective, they may agree to proceed

with mediation or arbitration. If mediation or arbitration are not acceptable methods of resolving the conflict then each Party retains all remedies otherwise available to it at law or in equity.

## **7.0 EMERGENCY ACTIONS**

The City may take, or direct Terrace Heights and/or Moxee to take reasonable emergency actions necessary to stop or prevent any discharge that presents, or may present, an imminent danger to the health or welfare of humans, that reasonably appears to threaten the environment, that threatens to cause interference, pass through, or sludge contamination, or that may cause the City to fail to comply with the terms of its NPDES Permit. The City may provide informal notice to the Industrial User of its intent to take emergency action prior to taking action. The City may also use reasonable efforts to notify Terrace Heights and Moxee (such efforts to include telephone contact) of its intent to take emergency action prior to taking said action. Depending on the immediacy of the need for action, however, the opportunity to respond may be limited to a hearing after the emergency powers of the City have been exercised.

## **8.0 INDEMNIFICATION**

- A. Moxee and Terrace Heights shall indemnify and hold the City harmless for all damages, fines, and costs (including, without limitation, attorneys', consultants' and experts' fees) incurred as a result of industrial waste discharged from Moxee's wastewater system in violation of federal or state laws or regulations or the pretreatment program maintained pursuant to this Special Wastewater Service Agreement. In addition, Moxee and Terrace Heights shall indemnify and hold harmless the City, its elected officials, officers, employees, agents and representatives, from and against any and all damages, fines, costs (including, without limitation, attorneys', consultants' and experts' fees, and fees to establish the right to indemnification), judgments, and liabilities (except to the extent that any of the same results from the indemnified party's negligent act or omission), arising out of or related to any act or omission of Moxee or Terrace Heights, their employees, subcontractors, agents, or servants; provided, however, that such act or omission is directly related to Moxee's or Terrace Heights' duties or responsibilities under this Special Agreement. These rights to indemnification shall survive the termination of this Special Wastewater Service Agreement.
- B. The City shall indemnify and hold harmless Moxee and Terrace Heights, their elected officials, officers, employees, agents and representatives, from and against any and all damages, fines, costs (including, without limitation, attorneys', consultants' and experts' fees, and fees to establish the right to indemnification), judgments, and liabilities (except to the extent that any of the same results from the indemnified party's negligent act or omission), arising out of or related to any act or omission of the City, its elected officials, officers, employees, subcontractors, agents, or servants; provided, however, that such act or omission is directly related to the City's duties or responsibilities under this Special Wastewater Service Agreement. This right to indemnification shall survive the termination of this Special Wastewater Service Agreement.

## **9.0 TERMINATION OF SERVICE**

The City shall have the right to terminate this Agreement for Cause should the parties hereto fail to meet the terms and conditions of service set forth in this Agreement, including, but not limited to noncompliance with Section 2.0 of this Agreement. The City may terminate this Agreement if the parties hereto materially breach the terms, conditions or obligations under this Agreement through no fault of the City. However, no such termination may be effected unless the breaching party or parties is/are given: (1) not less than one hundred-eighty (180) calendar days written notice delivered by certified mail, return receipt requested, of the reason for the proposed termination; and (2) a reasonable opportunity for consultation and for curing the breach prior to effective termination. Notice shall be considered issued within seventy-two (72) hours of mailing by certified mail to the parties.

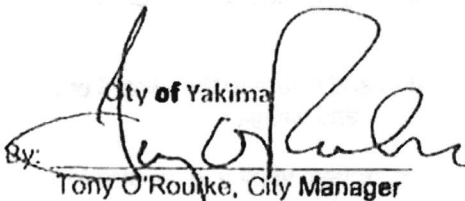
## **10.0 GENERAL PROVISIONS**

- A. **Severability.** If one or more sections or provisions of this Agreement are held to be unlawful, invalid or unenforceable by any court with jurisdiction, the remainder of this Agreement shall not be affected thereby.
- B. **Binding Effect.** This Agreement shall be binding upon and insure to the benefit of the Parties hereto and their predecessors, successors, heirs and assigns.
- C. **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. Any legal action taken to enforce the provisions of this Agreement shall be maintained in a court of competent jurisdiction in Yakima County, Washington. Venue for any action taken to enforce any part of this Agreement shall lie in a court of competent jurisdiction in Yakima County.
- D. **Force Majeure.** If a Party is rendered unable by Force Majeure due to acts of God, strikes, lockouts, labor disputes, civil disorder, acts of terrorism or other causes beyond the reasonable control of the affected Party, to carry out, in whole or part, its obligations under this Agreement and such Party gives notice and full details of the event to the other Party as soon as practicable after such occurrence, the obligations of the Party affected by the event shall be suspended to the extent required. The Party claiming Force Majeure shall remedy the Force Majeure as soon as possible.
- E. **Non-Waiver.** The failure on the part of any Party to enforce its right as to any provision of the Agreement shall not be construed as a waiver of its rights to enforce such provision in the future.
- F. **No Third-Party Beneficiary.** Except as expressly provided herein, this Agreement is entered into for the exclusive benefit of the Parties hereto and shall not be construed to create any rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or of any duty, obligation or undertaking established herein.
- G. **Litigation.** Each Party shall bear its own costs and expenses relating to any mediation and litigation that may result from the performance of this Agreement, and the City shall not include its mediation or litigation costs and expenses in charges to Terrace Heights.

- H. **Modification of Agreement.** No modification or waiver of this Agreement or any part hereof shall be valid or effective unless in writing and signed by all then-current Parties to this Agreement; no waiver of any breach or condition of this Agreement shall be deemed to be a waiver of any other subsequent breach or condition, whether of like or different nature.
- I. **Entirety.** This Agreement merges and supersedes all prior negotiations, representations, and agreements between the Parties hereto relating to the subject matter hereto and constitutes the entire contract between the Parties for the purposes described herein.

### **11.0 EFFECTIVE DATE AND TERM OF AGREEMENT**

This Agreement shall become effective January 1, 2015 upon execution by the City, Terrace Heights, and Moxee. It shall remain in full force and effect as long as Terrace Heights remains a Party Member of the 3-Party Agreement or unless it has been terminated earlier pursuant to the terms of this Agreement.

City of Yakima  
By:   
Tony O'Rourke, City Manager

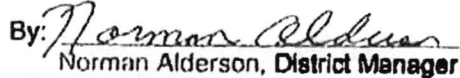
Date: 11/20/14

Attest:  
  
Sonya Claar Tee, City Clerk

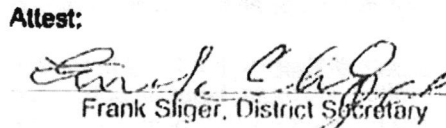
Contract No. 2014-200  
Resolution No. R- 2014-138



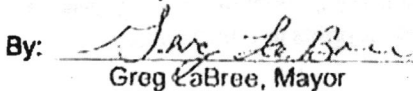
#### **Terrace Heights Sewer District**

By:   
Norman Alderson, District Manager

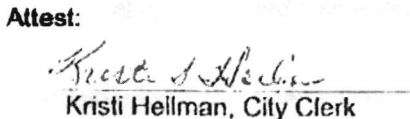
Date: 7/29/2014

Attest:  
  
Frank Sliger, District Secretary

#### **City of Moxee**

By:   
Greg LaBree, Mayor

Date: 9-25-2014

Attest:  
  
Kristi Hellman, City Clerk

# **SEWER USE ORDINANCE**

**CITY OF YAKIMA**

## Chapter 7.65 SEWER USE AND PRETREATMENT REGULATIONS\*

### Sections:

#### Part 1. General Provisions

- [7.65.010](#) Purpose and policy.
- [7.65.015](#) Administration.

#### Part 2. Definitions

- [7.65.020](#) Definitions.

#### Part 3. Public Sewer Use Requirements

- [7.65.030](#) Use of public sewers required.
- [7.65.040](#) Private wastewater disposal.
- [7.65.050](#) Building sewers and connections.

#### Part 4. Pretreatment Standards and Requirements

- [7.65.060](#) Pretreatment standards and requirements.
- [7.65.070](#) Limitations on wastewater strength.
- [7.65.080](#) Slugload or accidental discharges.
- [7.65.090](#) Pretreatment facilities.

#### Part 5. Fees

- [7.65.110](#) Rates, charges and fees.

#### Part 6. Administration, Reporting and Monitoring

- [7.65.120](#) Industrial dischargers.
- [7.65.130](#) Industrial discharger identification and data disclosure.
- [7.65.140](#) Reporting requirements for industrial dischargers.
- [7.65.150](#) Monitoring equipment.
- [7.65.160](#) Inspection and sampling.
- [7.65.165](#) Vandalism.
- [7.65.170](#) Confidential information.

#### Part 7. Wastewater Discharge Permits and Authorizations

- [7.65.180](#) Wastewater discharge permit and authorization determination.
- [7.65.184](#) Wastewater discharge authorization required.
- [7.65.185](#) Wastewater discharge permit required.
- [7.65.190](#) Wastewater discharge permitting process.
- [7.65.195](#) Wastewater discharge permit contents, transfer and modification.
- [7.65.198](#) Revision of the wastewater discharge permit program.

## Part 8. Administrative Enforcement

- [7.65.200](#) Notification of violation.
- [7.65.210](#) Consent orders.
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- [7.65.270](#) Termination of treatment services.
- [7.65.280](#) Administrative hearing.
- [7.65.285](#) Appeal to the city council.
- [7.65.290](#) Judicial review.
- [7.65.300](#) Publication of enforcement actions.
- [7.65.310](#) Performance bonds and liability insurance.
- [7.65.320](#) Operating upsets.
- [7.65.330](#) General/specific prohibitions.
- [7.65.340](#) Bypass.
- [7.65.350](#) Records retention.

## Part 9. Judicial Enforcement

- [7.65.360](#) Judicial remedies.
- [7.65.370](#) Injunctive relief.
- [7.65.380](#) Civil penalties.
- [7.65.390](#) Falsifying information.
- [7.65.400](#) Criminal penalties.
- [7.65.410](#) Remedies nonexclusive.

## Part 10. Additional Provisions

- [7.65.420](#) Septage and liquid waste hauling requirements.
- [7.65.430](#) Regulations.
- [7.65.440](#) Severability.

\* Prior ordinance history: Ords. 3491, 97-02, 97-13 and 2000-19.

## Part 1. General Provisions

### **7.65.010 Purpose and policy.**

This chapter sets forth uniform requirements for dischargers into the city of Yakima's (city) publicly owned treatment works (POTW), and enables the city to protect public health in conformity with all applicable local, state and federal laws relating thereto, including the Clean Water Act ([33 U.S.C. 1251](#) et seq.) and the General Pretreatment Regulations ([40 CFR part 403](#)). This chapter shall apply to all users of the POTW.

The objectives of this chapter are the following:

1. To promote the health, safety and welfare of those persons within the city's sewer service area;
2. To ensure proper and safe connections to the POTW;
3. To prevent the introduction into the POTW that could interfere with the normal operation of the POTW;
4. To prevent the introduction of pollutants into the POTW that would not receive adequate treatment in the POTW and that would pass through the POTW into receiving waters or the atmosphere or otherwise be incompatible with the POTW;
5. To ensure that the quality of biosolids from the POTW is maintained at a level which allows its utilization and beneficial reuse in compliance with applicable statutes and regulations;
6. To protect POTW personnel who may be affected by wastewater and biosolids in the course of their employment and to protect the general public;
7. To improve the opportunity to recycle and reclaim wastewater and biosolids from the POTW; and
8. To enable the city to comply with its NPDES permit conditions, biosolids utilization and beneficial reuse requirements and any other federal or state laws to which the POTW is subject.

This chapter provides for the regulation of discharges into the city's wastewater system through the enforcement of administrative regulations. This chapter authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires discharger reporting. This chapter also authorizes the city's wastewater division to issue and enforce wastewater discharge permits. With the issuance of the city's June 15, 2003, NPDES permit, the Washington State Department of Ecology fully delegated to the city a wastewater pretreatment program pursuant to 40 CFR Part 403 and WAC Chapter 173-208. This chapter does not provide for the recovery of operations, maintenance or replacement costs of the POTW or the costs associated with the construction of collection and treatment systems used by industrial dischargers, in proportion to their use of the POTW, which are the subject of separate enactments. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.015 Administration.**

Except as otherwise provided, the wastewater manager shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the wastewater manager may be delegated by the wastewater manager to other city personnel. (Ord. 2003-74 § 1 (part), 2003).

### **Part 2. Definitions**

#### **7.65.020 Definitions.**

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

"Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act ([33 U.S.C. 1251](#) et seq.), in its current form or as it may be amended.

"Applicable pretreatment standards" for any specified pollutant means the city's specific limitations on discharge, the state standards or the national categorical pretreatment standards (when effective), whichever standard is most stringent in a given situation.

"Authorized representative" means:

- a. If the industrial discharger is a corporation, the president, secretary, treasurer or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or the manager of one or more manufacturing, production or operation facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- b. If the industrial discharger is a partnership or sole proprietorship, a general partner or proprietor, respectively;
- c. If the industrial discharger is a federal, state or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;
- d. The individuals described in subsections a through c of this definition may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

"Backwater valve" means a device installed in a drainage system to prevent reverse flow.

"Best management practices" means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to implement the prohibitions listed in [40 CFR 403.5\(a\)](#) (1) and (b) and treatment requirements, operating procedures and practices to control facility site runoff, spills or leaks, sludge or waste disposal or drainage from raw materials storage.

"Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at twenty degrees centigrade, expressed in milligrams per liter (mg/L).

"Building drain" means that part of the lowest horizontal piping of a drainage system, which receives the discharged wastewater from inside the walls of the building and conveys it to the building sewer connection, beginning five feet outside the exterior face of the building wall.

"Building sewer" means that part of the horizontal piping of a drainage system, which extends from the end of the building drain and which receives the discharge from the building drain, conveying it to the public sewer.

"Bypass" means the intentional diversion of waste streams from any portion of an industrial discharger's treatment facility.

"Categorical pretreatment standards" or "categorical standards" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act ([33 U.S.C. 1317](#)) which apply to a specific category of industrial dischargers and which appear in [40 CFR](#) Chapter I, Subchapter N, Parts [405](#) through [471](#).

"CFR" means the Code of Federal Regulations.

"City" means the city of Yakima or its authorized deputy, agent or representative.

"Code administration and planning manager" means the director and authorized representatives of the department of community and economic development of the city of Yakima.

"Color" means the optical density at the visual wavelength of maximum absorption, relative to distilled water. One hundred percent transmittance is equivalent to zero optical density.

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

"Date of full delegation" means June 15, 2003, the date upon which the city became fully authorized, pursuant to [40 CFR](#) Part [403](#) and WAC Chapter [173-208](#), to administer the wastewater discharge permit program set forth in Part 7 of this chapter.

"Discharge authorization" means the written permission from the wastewater manager for long-term, short-term, or temporary discharges into the city's POTW by persons other than significant industrial users or residential users.

"Discharger—industrial discharger or user" means any nondomestic user who discharges a liquid-carried effluent, or wastewater, into a POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, intercepting ditches or any constructed devices and appliances appurtenant thereto. The term "industrial discharger" specifically includes commercial businesses that discharge wastewater other than domestic wastewater.

"Domestic discharger or user" means any single-family or multifamily residential customer or commercial business customer discharging domestic wastewater only.

"Domestic wastewater" means water from any domestic discharger or user carrying human waste, kitchen, bath and laundry waste, and housekeeping materials in volumes and/or concentrations normally associated with residential discharges, together with such groundwater infiltration or surface waters as may be present.

"Ecology" means the Washington State Department of Ecology.

"Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the regional water management division director or other duly authorized official of said agency.

"Existing discharger" or "existing user" means any discharger which was discharging wastewater prior to the effective date of this chapter.

"Existing source" means any source of discharge of wastewater, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

"Floatable oil" means fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility.

"Food processing" means the preparation of fruits or vegetables for human or animal consumption, including, but not limited to, the preparation of fruits or vegetables for wholesale or retail sale by washing and/or other processes.

"Food processing wastewater" means wastewater that contains wastes generated by food processing and that is discharged into the food processing wastewater system. "Food processing wastewater" does not include any domestic or industrial wastewater except as set forth in this section.

"Food processing wastewater sewer" means the system for the collection and treatment of food processing wastewater. This definition includes any devices or systems used in the collection, storage, treatment, recycling, or reclamation of food processing wastewater and any conveyances that convey food processing wastewater to the food processing wastewater treatment plant.

"Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

"Grab sample" means a sample, which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen minutes.

"Indirect discharge" means the discharge or the introduction of nondomestic pollutants from a source regulated under Section 307(b), (c) or (d) of the Act, into a POTW. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.

"Industrial discharger" means "discharger—industrial discharger or user," as defined in this section.

"Industrial sewer" means a drain or sewer which carries industrial wastewater only, as distinct from "process sewer," "sanitary sewer" or "storm sewer."

"Industrial wastewater" means water- or liquid-carried waste from any industrial, manufacturing, trade or business which includes some combination of process wastewater, domestic wastewater, noncontact cooling water, contaminated stormwater or contaminated leachates, as distinct from "domestic wastewater" or "process wastewater" or "noncontact cooling water."

"Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the normal operation of the city sewer system, or which causes a violation of any requirement of the POTW's National Pollution Discharge Elimination System (NPDES) permit including an increase in the magnitude or duration of a violation or any increase in the cost of treatment of sewage or in the cost of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act ([33 U.S.C. 1345](#) et seq.); the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA) ([42 U.S.C. 6901](#) et seq.); any state regulations contained in any state biosolids management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act ([42 U.S.C. 7401](#) et seq.); the Toxic Substances Control Act (TSCA) ([15 U.S.C. 2601](#) et seq.); and the Marine Protection, Research and Sanctuaries Act ([33 U.S.C. 1401](#) et seq.).

"Lower explosive limit" or "LEL" means the lowest concentration of a gas-in-air mixture at which the gas can ignite.

"May" is permissive.

"Medical waste" means isolation wastes, infectious agents, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

"mg/L" means milligrams per liter.

"Minor industrial discharger or user (MIU)" means a nondomestic discharger that meets one or more of the following criteria:

a. Discharges wastewater which meets at least one of the following criteria:

- (1) Daily average process wastewater flows exceed five thousand gallons per day, but not more than twenty-five thousand gallons per day (excluding domestic wastewater and noncontact cooling water); or
- (2) Maximum daily discharge volume which exceeds one percent of the average dry weather hydraulic or organic capacity of the POTW; or

b. Is otherwise deemed by the city to be categorized as an MIU.

"Natural outlet" means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

"New discharger" or "new user" means a user that is not regulated under federal categorical pretreatment standards but that applies to the city for a new building permit or occupies an existing building and plans to commence discharge of wastewater (other than domestic wastewater) to the city's collection system after the effective date of this chapter. Any person that buys an existing facility that is discharging nondomestic wastewater will be considered an existing discharger or existing user if no significant changes are made in the manufacturing operation.

"New source" means any building, structure, facility or installation from which there is or may be a discharge of wastewater, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section; provided, that:

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

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

Construction of a new source as defined under this section 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 of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts, which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.

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

"Nondomestic discharger or user" means any discharger other than a domestic discharger (i.e., an industrial discharger or user).

"Nonresidential domestic discharger or user" means any domestic discharger other than single-family or multifamily residential dischargers or users.

"North American Industry Classification System (NAICS)" means a system used by business and government to classify and measure economic activity in Canada, Mexico, and the United States. It is in the process of replacing the older Standard Industrial Classification (SIC) Code System.

"NPDES" means the National Pollutant Discharge Elimination System permit program as administered by the EPA or State of Washington Department of Ecology (Ecology).

"O&M" means operation and maintenance.

"Other wastes" means decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals and all other substances except sewage and industrial wastewater.

"Pass through" means a discharge or pollutant which enters and subsequently exits the POTW into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation).

"Permit," unless the context clearly dictates otherwise, means a "wastewater discharge permit" as defined in this section.

"Permittee" means a person, discharger or user issued a wastewater discharge permit.

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

"pH" means the logarithm of the reciprocal of the mass of hydrogen ions in grams per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of  $10^{-7}$ . pH is a measure of a substance's corrosivity (acidity or alkalinity).

"Pollutant" means any substance discharged into a POTW which, if discharged directly, would alter the chemical, physical, thermal, biological or radiological integrity of the water of the state, or would or be likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to any legitimate beneficial use, or to any animal life, either terrestrial or aquatic. Pollutants include, but are not limited to, the following: dredged soil, solid waste, incinerator residue, sewage, garbage, sewage biosolids, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, chemical oxygen demand (COD), toxicity and odor).

"POTW" means publicly owned treatment works (sometimes termed wastewater facilities or wastewater treatment system or wastewater treatment works or water pollution control facility). POTW designates a "treatment works" as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the state or municipality. This 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 wastewater to a wastewater treatment plant. The term also means the municipal entity having responsibility for the operation and maintenance of the treatment works.

"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless specifically allowed by an applicable pretreatment standard.

"Pretreatment requirement" means any substantive or procedural requirement related to pretreatment other than a pretreatment standard.

"Pretreatment standard" means discharge standards, categorical pretreatment standards and local limits.

"Private wastewater disposal system" means any system of piping, treatment devices or other facilities, including a septic tank, that conveys, stores, treats or disposes of sewage on the property where it originates or on adjacent or nearby property under the control of the user where the system is not connected to a public sewer.

"Process sewer" means a drain or sewer which carries process wastewater only, as distinct from industrial sewer, sanitary sewer and storm sewer.

"Process wastewater" means water- or liquid-carried waste discharged from one or more industrial, manufacturing, trade or business practices or from the development, recovery or processing of natural resources. Process wastewater does not include domestic waste or noncontact cooling water. Process wastewater may refer to one process discharge or several commingled process discharges.

"Prohibitive discharge standard" means any regulation developed under the authority of Section 307 (b) and (c) of the Act ([33 U.S.C. 1317\(b\)\(c\)](#)), the General Pretreatment Regulations ([40 CFR part 403](#)), the state or by the city which prohibits the discharge of certain types or characteristics of wastewater. These prohibitions can be general or specific and are contained in YMC [7.65.060](#).

"Public sewer" means a sewer constructed for conveyance of liquid wastes, which is controlled by a public authority.

"Residential discharger or user" means a single-family or multifamily residential customer that discharges only domestic wastewater to the POTW.

"Sanitary sewer" means a drain or sewer which carries sewage, as distinct from industrial sewer, process sewer and storm sewer. Sanitary sewers may carry industrial wastewater or process wastewater commingled with domestic wastewater.

"Septage" or "septic tank waste" means, but is not limited to, septic tank pumping, portable toilet pumping, sump pumping, camper and trailer pumping.

"Severe property damage" means substantial physical damage to property, damage to the wastewater treatment or pretreatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in

the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"Sewage" means water-carried human wastes or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm or other waters as may be present. (The preferred term is "wastewater.")

"Sewage works" shall have the same meaning as POTW.

"Sewer" means any pipe, conduit, ditch or other device used to collect and transport sewage.

"Shall" is mandatory.

"Significant industrial discharger or user (SIU)" means a nondomestic user of the POTW who:

- a. Is subject to categorical pretreatment standards; or
- b. Discharges an average of twenty-five thousand gallons per day or more of process wastewater to the POTW (excluding domestic wastewater and noncontact cooling water); or
- c. Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
- d. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

Upon a finding that a nondomestic user meeting the criteria of subsection b, c, or d of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a nondomestic user, and in accordance with procedures in 40 CFR 403.8(f) (6), determine that such user should not be considered a significant industrial user.

"Slugload" means any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a single extraordinary discharge episode of such volume or strength as to cause a violation of this chapter, including, but not limited to, the following: interference to the POTW, or flow rate exceeding the permitted peak flow, or ten percent of the capacity of the available trunk sewer, whichever is greater.

"Standard Industrial Classification (SIC) Code" means a classification pursuant to the "Standard Industrial Classification Manual" issued by the U.S. Office of Management and Budget.

"State" means the state of Washington.

"Storm sewer" (sometimes termed "storm drain") means a drain or sewer which carries storm and surface waters and drainage, but from which domestic wastewater, industrial wastewater and process wastewater are intended to be excluded.

"Stormwater" means any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.

"Suspended solids" or "total suspended solids (TSS)" means total suspended solids or matter that either floats on the surface of or is in suspension in water, sewage, or other liquids, and which is removable by laboratory filtering.

"Temporary discharge" means a discharge on a one-time or temporary basis into the city's POTW of no more than one year in duration. Significant industrial users are ineligible for authorization for a temporary discharge.

"Toxic pollutants" means those substances listed in the federal priority pollutant list and any other pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under Section 307 ([33 U.S.C. 1317](#)) of the Clean Water Act.

"Treatment plant effluent" means any discharge of water pollutants from the POTW into waters of the state.

"Unpolluted water" is water of quality equal to or better than the effluent limitations in effect or water that would not cause violation of the receiving water quality standards and would not be benefited by discharge to the public sewer and POTW.

"Upset" means an exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in YMC [7.65.060](#) and [7.65.070](#), or with the terms of pretreatment standards contained in an applicable wastewater discharge permit or authorization, 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 preventive maintenance or careless or improper operation thereof.

"WAC" means the Washington Administrative Code.

"Wastewater" means water- or liquid-carried industrial waste, process waste, or domestic waste or any modification thereof, or any other water-carried waste, including that which may be combined with any groundwater, surface water, or stormwater, that is or may be discharged to the POTW or a private wastewater disposal system. For purposes of this chapter, "wastewater" shall also include "food processing wastewater," as defined in Chapter [7.12](#).

"Wastewater discharge permit" means an authorization or equivalent control document issued by the wastewater division pursuant to Part 7 of this chapter allowing the discharger, under certain limitations, to discharge wastewater to the POTW. The permit shall contain appropriate pretreatment standards and requirements as set forth in this chapter.

"Wastewater division" means such division of the city of Yakima and includes its manager and authorized representatives, and includes the term wastewater manager as used in this chapter.

"Wastewater manager" or "manager" means the supervisor of the wastewater division and includes authorized representatives of the wastewater manager and wastewater division.

"Wastewater treatment operator" means an individual who performs routine pretreatment duties, or supervision of such duties, on-site at a discharger's pretreatment facilities which affect effluent quality, and who (a) holds, at least, a valid State of Washington Wastewater Treatment Operator 1

certification, or (b) who has successfully completed a course of study which, in the opinion of the wastewater manager, contains all subject matter reasonably related to the duties of a wastewater pretreatment operator.

"Wastewater treatment plant" or "treatment plant" means that portion of the POTW designated to provide treatment of wastewater.

"Watercourse" means a natural or artificial channel for the passage of water either continuously or intermittently. (Ord. 2007-26 § 1 (part), 2007: Ord. 2003-74 § 1 (part), 2003).

### **Part 3. Public Sewer Use Requirements**

#### **7.65.030 Use of public sewers required.**

- A. It is unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property any human or animal excrement, garbage or other objectionable waste.
- B. It is unlawful to discharge into any public storm drain or ditch any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.
- C. Except as provided in this chapter, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.
- D. The owners of all newly constructed houses, buildings or properties used for human occupancy, employment, recreation or other purposes, or owners of houses, buildings or properties utilizing a cesspool or have a failed on-site septic system shall be compelled to connect such facilities directly with the proper public sewer in accordance with the provisions of the chapter; provided, that said public sewer is within two hundred feet of the property line.
- E. The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, 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 sewer of the city, are required at the owners' expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within ninety days after date of official notice to do so; provided, that said public sewer is within two hundred feet of the property line. (Ord. 2006-07 § 25, 2006: Ord. 2003-74 § 1 (part), 2003).

#### **7.65.040 Private wastewater disposal.**

Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit from the Yakima health district as set forth in Part 10, as now or as hereafter may be amended, of said district's "Rules and Regulations Providing for the Regulation of On-site Sewage Disposal Systems." (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.050 Building sewers and connections.**

A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the code administration and planning manager.

B. There shall be two classes of building sewer permits: (1) residential and nonresidential domestic service, and (2) service to nondomestic dischargers producing industrial wastewater. In either case, the owner or his/her agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the code administration and planning manager. Permit and inspection fees shall be paid as required by applicable provisions of this code.

C. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify and hold harmless the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The owner shall utilize only those construction contractors which are adequately licensed and bonded in accordance with the city's requirements at the time of connection to the sewer. The licensed and bonded contractor shall have taken and passed the side sewer installer certification test that is proctored by the code administration and planning division of the city of Yakima.

D. A separate and independent building sewer shall be provided for every building, and only on each building's separate and independent lot, except under the following circumstances:

1. Where one building stands in the rear of another building on an interior lot, and no private sewer is available or can be constructed to the rear building through an adjoining court, yard or driveway, the building drain from the front building may be extended to the rear building and the whole considered as one building sewer; or

2. Where other circumstances, established to the satisfaction of the code administration and planning manager, indicate the need for a single sewer connection between separate and independent lots and there is a legally valid easement over the subservient lot.

The city does not and will not assume any obligation or responsibility for damage caused by or resulting from any single connection.

E. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the code administration and planning manager, to be in good repair, sized for the number of fixtures per the plumbing code most recently adopted by the city, to be suitable for this purpose, and to meet all requirements of this chapter.

F. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the edition of the plumbing code most recently adopted by the city.

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

described in the edition of the plumbing code most recently adopted by the city and found acceptable by the code administration and planning manager, and discharged to the building sewer.

H. No person shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff, stormwater or groundwater to a building sewer or building drain, which in turn is connected directly or indirectly to a public sewer, or maintain such a connection.

I. The connection of the building sewer into the public sewer shall conform to the requirements of the editions of the building code and plumbing code most recently adopted by the city. All such connections shall be made gastight and watertight and verified by proper testing. The code administration and planning manager must approve any deviation from the prescribed procedures and materials before installation.

J. The applicant for the building sewer permit shall notify the code administration and planning manager when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the code administration and planning manager.

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

L. A properly functioning backwater valve shall be required in any building containing a basement, except in those situations which would not require a backwater valve as described in the edition of the building code most recently adopted by the city. The permit to install a backwater valve can be obtained from the code administration and planning manager. The city shall not be liable for damage due to wastewater backing up into a building where a properly functioning backwater valve has not been installed. The city also shall not be liable for damage due to wastewater backing up into a building where a backwater valve has been installed but has not been properly maintained or repaired. (Ord. 2007-26 § 1 (part), 2007: Ord. 2003-74 § 1 (part), 2003).

#### **Part 4. Pretreatment Standards and Requirements**

##### **7.65.060 Pretreatment standards and requirements.**

A. No person shall discharge or cause to be discharged to the POTW, directly or indirectly, any unpolluted waters such as stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water or noncontact cooling water, and unpolluted industrial wastewater to any sewer or natural outlet, unless approved by the wastewater manager and other regulatory agencies whose approval is required by law. (See Part 7 of this chapter.)

B. No person shall discharge or cause to be discharged to the POTW, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. Furthermore, no discharger shall discharge or cause to be discharged to the POTW, directly or indirectly, any of the following described substances unless discharged pursuant to a valid wastewater discharge permit or authorization from the wastewater manager:

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 to be injurious in any other way to the operation of the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than one hundred forty degrees Fahrenheit or sixty degrees centigrade using the test methods specified in 40 CFR 261.21. At no time shall two successive readings on a combustible gas meter, at the point of discharge into the system (or at any point in the system), be over five percent, nor any single reading over ten percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, fuel oil, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and any other substances which are a fire hazard or hazard to the POTW.
2. Solid or viscous substances in quantities or of such size that they will, or may, cause reduction of the effective cross-sectional area of a sewer, obstruction to the flow in a sewer, or other interference with the operation of the POTW. In no case may solids greater than one-fourth inch in any dimension be discharged to the POTW.
3. Any wastewater having a pH less than 5.5 or higher than 12.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the system.
4. Any wastewater having a BOD of more than three hundred mg/L.
5. Any wastewater having a TSS content of more than three hundred mg/L.
6. Any wastewater having a chlorine demand of more than twenty mg/L.
7. Any wastewater having an animal/vegetable (polar) based floatable oil, fat waste, oil or grease (whether or not emulsified), hexane or ether-soluble matter content in excess of one hundred mg/L; or a mineral/petroleum (nonpolar) based oil or grease (whether or not emulsified), hexane or ether-soluble matter content in excess of one hundred mg/L; or any petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through; or any substance which may solidify or become discernibly viscous at temperatures above zero degrees centigrade (thirty-two degrees Fahrenheit).
8. Any wastewater containing pollutants in sufficient quantity or concentration, either singly or by interaction, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or to exceed the limitation set forth in categorical pretreatment standards, or state or local standards.
9. Any pollutants which result in the presence of toxic, noxious or malodorous liquids, gases, vapors, fumes or solids within the POTW in a quantity that either singly or by interaction are capable of creating a public nuisance or hazard to life or causing acute worker health and safety problems, or are sufficient to prevent entry into the sewers for their maintenance and repair.
10. Any substance which may cause the POTW's effluent or treatment residues, biosolids or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In

no case shall a substance be discharged to the POTW that, either alone or in combination with other discharges, will cause the POTW to be in noncompliance with biosolids use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; or with any criteria, guidelines or regulations affecting biosolids use or disposal developed pursuant to the Solid Waste Disposal Act, [42 U.S.C. 6901](#) et seq., as now or as it may be amended, the Clean Air Act, [42 U.S.C. 7401](#) et seq., as now or as it may be amended, the Toxic Substances Control Act (TSCA), [15 U.S.C. 2601](#) et seq., as now or as it may be amended, or similar state statutes or regulations applicable to the biosolids management method being used.

11. Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits.

12. 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 plant's effluent thereby violating the city's NPDES permit. Color, alone or in combination with turbidity, shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent from the seasonably established norm for aquatic life.

13. Any slugload.

14. Any sludges, screenings or other residues from the pretreatment of industrial wastewater discharges.

15. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as exceed limits established by the city in compliance with applicable state or federal regulations.

16. Any wastewater that causes a hazard to human life or creates a public nuisance.

17. Any medical wastes.

18. Any wastewater causing the treatment plant's effluent to fail a toxicity test.

19. Any wastes containing detergents, surface-active agents, or other substances in such concentrations that they may cause excessive foaming in the POTW.

20. Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA), [7 U.S.C. 136](#) et seq., as now or as it may be amended.

C. No discharger shall discharge or cause to be discharged to the POTW, directly or indirectly, any of the following described substances unless discharged pursuant to a valid wastewater discharge permit or authorization from the wastewater manager:

1. Any wastewater with a temperature that will inhibit biological activity in the POTW treatment plant resulting in interference; but, in no case, wastewater with a temperature at the introduction into the POTW which exceeds forty degrees centigrade (one hundred four degrees Fahrenheit).

2. Any trucked or hauled pollutants, except pursuant to YMC [7.65.420](#).

3. Any dangerous wastes as defined in Chapter [173-303](#) of the Washington Administrative Code (WAC), as now or as it may be amended.

4. Flows which have the potential to adversely affect the hydraulic loading of the POTW, including the following categories:

- a. Noncontact cooling water;
- b. Stormwater and other direct inflow sources; and
- c. Nonpolluted water or water which does not require significant treatment.

D. Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial discharger's pretreatment facility prior to discharging to the POTW.

E. The general and specific prohibitions provided by this section apply to all dischargers to the POTW whether or not the discharger is subject to categorical pretreatment standards or requirements. (Ord. 2010-54 § 1, 2010: Ord. 2007-26 § 1 (part), 2007: Ord. 2006-07 § 26, 2006: Ord. 2003-74 § 1 (part), 2003).

#### **7.65.070 Limitations on wastewater strength.**

A. National categorical pretreatment standards as adopted and hereafter amended or modified by the U.S. Environmental Protection Agency (EPA) pursuant to the Act shall be met by all dischargers of the regulated industrial categories. The national categorical standards found at [40](#) CFR Chapter I, Subchapter N, Parts [405](#) through [471](#) are hereby incorporated.

B. State requirements and limitations on discharges to the POTW shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this chapter or any other applicable ordinance.

C. The city may from time to time amend this chapter to provide for more stringent limitations or requirements on discharges to the POTW if such amendments are deemed necessary to comply with the objectives set forth in YMC [7.65.010](#), or are otherwise in the public interest.

D. No discharger shall dilute its waste stream with potable or process water in any way, nor mix separate waste streams 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 chapter.

E. No discharger shall discharge wastewater containing concentrations (and/or mass limitations) that exceed any of the following local discharge limits unless prior written approval has been obtained from the wastewater division:

##### **Pollutant<sup>(1)</sup>**

Arsenic (As)	0.48
Cadmium (Cd)	0.049
Chloroform	0.67

<b>Pollutant<sup>(1)</sup></b>	
Chromium (Cr)	5.0
Chromium (VI)	0.43
Copper (Cu)	0.30
Lead (Pb)	0.19
Mercury (Hg)	0.002
Molybdenum (Mo)	1.14
Nickel (Ni)	2.0
Selenium (Se)	0.419
Silver (Ag)	0.06
Sulfide (liquid phase)	0.5
Zinc (Zn)	4.2
beta-BHC	0.01516
Endosulfan	0.06964
Endrin	0.00383
alpha-Chlordane	0.00716
gamma-Chlordane	0.00367
Chlorpyrifos	0.01298
Lindane	0.13324
Benzene	0.05 <sup>(3)</sup>
BTEX <sup>(2)</sup>	0.75 <sup>(3)</sup>

(1) All pollutants are analyzed and reported as total mg/L.

(2) BTEX is the sum of the measured concentrations of benzene, toluene, ethylbenzene and xylene.

(3) These pollutants are based upon treatment technology (air stripping/carbon capture) and are developed for discharges from groundwater cleanup or remediation activities or other effluents containing benzene and/or BTEX and requiring the installation of treatment.

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. An industrial user, through enforcement action and/or permit compliance schedule, may be required to install treatment or otherwise reduce or halt a discharge of a pollutant to maintain compliance with pretreatment standards and requirements and prevent interference with the operation of the POTW, pass through and adverse effects on the quality of the receiving waters, contamination of municipal biosolids, health and safety hazards to workers in the POTW, or violations of applicable federal or state regulations. The city may impose mass limitations on discharges in cases where necessary to be consistent with federal categorical pretreatment standards. Where a discharger is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or

applicable pretreatment standard shall apply. The city may establish more stringent pollutant limits, mass-based limits, additional site-specific pollutant limits, best management practices, or additional pretreatment requirements when, in the judgment of the city, such limitations are necessary to implement the provisions of this chapter.

F. All known, available and reasonable methods of pretreatment, in accordance with RCW [90.48.010](#) and WAC [173-216-020](#)(1), shall be used by a discharger to bring into compliance a wastewater discharge that does not comply with standards set forth in this chapter.

G. The city reserves the right to enter into special agreements with industrial dischargers setting out special terms under which they may discharge wastewater to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial discharger may request a net gross adjustment to a categorical standard in accordance with [40 CFR 403.15](#). They may also request a variance in accordance with [40 CFR 403.13](#) from the categorical pretreatment standard from EPA. Such a request will be approved only if the industrial discharger can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. An industrial discharger requesting a fundamentally different factor variance must comply with the procedural and substantive provision in [40 CFR 403.13](#). (Ord. 2010-54 § 2, 2010: Ord. 2006-07 § 27, 2006: Ord. 2003-74 § 1 (part), 2003).

#### **7.65.080 Slugload or accidental discharges.**

A. Each discharger shall provide protection from a slugload or accidental discharge of prohibited or regulated materials or substances established by this chapter. Where the city deems it necessary, a discharger shall provide and maintain, at the discharger's own cost and expense, facilities and operating procedures to prevent a slugload or accidental discharge of prohibited materials. When requested to do so, the discharger shall submit to the wastewater manager for review a "slugload control/spill prevention, control and countermeasure plan" (SC/SPCC plan) showing facilities and operating procedures to provide this protection. The wastewater manager shall evaluate, at least once every two years and within one year of a user's initial designation as a significant industrial discharger, whether each significant industrial user needs an SC/SPCC plan. The SC/SPCC plan shall contain at a minimum the following elements:

1. Description of discharge practices for batch and continuous processes, including nonroutine and routine batch discharges;
2. Description of stored hazardous substances, including quantity maintained for each listed material and a map showing their location;
3. Procedures for immediately notifying the city and any other authorities of any accidental or slugload discharges, with procedures for follow-up written notification within five days; and
4. Procedures to prevent adverse impact from any accidental or slugload discharge, including, but not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

Where applicable, the SC/SPCC plan shall also conform to guidelines found in 40 CFR, Part 112 and to Ecology's "Guidelines to Prevent, Control, and Contain Spills from the Bulk Storage of Petroleum Products" (WDOE 83-8), as now or as they may be amended. Each discharger shall complete its SC/SPCC plan and submit it to the wastewater manager within one hundred twenty days of being notified by the manager to do so. The wastewater manager will review the SC/SPCC plan before construction of any prevention facility. No discharger who discharges to the POTW after the aforesaid date shall be permitted to introduce pollutants into the system until such SC/SPCC plan has been reviewed by the wastewater manager. Review of such plan by the wastewater manager shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this chapter.

B. A discharger who has prepared an SC/SPCC plan shall review and evaluate such plan at least every two years from the date of submittal. As a result of this review and evaluation, the discharger shall amend the SC/SPCC plan within six months of the review to include more effective prevention and control technology if: (1) such technology will significantly reduce the likelihood of a spill event from the facility, and (2) if such technology has been field-proven at the time of the review. The plan shall be maintained on the plant site and readily available to facility personnel.

C. Dischargers shall verbally notify the wastewater manager immediately upon the occurrence of a slugload or accidental discharge of substances prohibited by this chapter and take immediate action to correct the situation. Within five days after the occurrence of the slugload or accidental discharge, the discharger shall follow up with a written notification to the wastewater division. The notifications shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions taken or to be taken. Any discharger who discharges a slugload of prohibited materials shall be liable for any expense, loss or damage to the POTW, in addition to any other liabilities established by this chapter or other city ordinance and the amount of any fines, penalties, damages or costs assessed against the city by any state or federal agency, court of law or private individual, as a result of the slugload or accidental discharge.

D. Signs shall be permanently posted in conspicuous places on discharger's premises, advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

E. Significant industrial users shall verbally notify the wastewater manager immediately of any changes in its facility or operating procedures that will affect its potential for slug discharges. Within five days of its verbal notification, the discharger shall follow up with a written notification to the wastewater division. Changes that will affect a facility's potential for slug discharges include, but are not limited to, significant changes to the hazardous substances stored at the facility and changes to the discharge practices associated with the facility's operating procedures. (Ord. 2007-26 § 1 (part), 2007; Ord. 2003-74 § 1 (part), 2003).

#### **7.65.090 Pretreatment facilities.**

A. Dischargers shall provide all known, available and reasonable methods of prevention, control and pretreatment as required to comply with this chapter and state and federal regulations, and shall

achieve compliance with all applicable pretreatment standards within the time limitations as specified by appropriate statutes, regulations, chapters and ordinances. Where the city deems it necessary, a discharger shall provide, properly operate and maintain, at the discharger's own cost and expense, facilities required to pretreat wastewater to a level acceptable to the city. When requested to do so, the discharger shall submit detailed plans showing the pretreatment facilities to both the wastewater manager and the code administration and planning manager for review and acceptance before construction of the facility. The review of such plans by either the wastewater manager or the code administration and planning manager shall in no way relieve the discharger from the responsibility of modifying its facility as necessary to produce an effluent acceptable to the wastewater manager under the provisions of this chapter. The discharger shall obtain all necessary construction-operating permits from both the wastewater manager and the code administration and planning manager. Prior to completion of the pretreatment facility, the discharger shall furnish its plan of operations and maintenance procedures for the wastewater manager to review. Such pretreatment facilities shall be under the control and direction of a qualified wastewater treatment operator, as defined in this chapter.

B. Any subsequent proposal for significant changes in the pretreatment facilities or method of operation shall be reported prior to and be accepted by the wastewater manager prior to the discharger's initiation of the changes.

C. Pretreatment facilities shall comply with the applicable requirements of Chapter 173-240 and Section [173-216-110](#) of the Washington Administrative Code (WAC) and RCW [90.48.010](#), as now or as they may be amended, and with the accepted plan of operations and maintenance procedures. The city will have the opportunity to audit periodically the compliance of the discharger with all applicable requirements, and to require changes in the discharger's plan of operations and maintenance procedures in order to ensure the discharger's continued compliance with these requirements. The discharger shall then comply with the modified plan of operations and maintenance procedures, together with all applicable requirements as may be specified by this chapter and federal and state regulations.

D. All wastes discharged into the food processing sewer shall be adequately screened by a twenty mesh or finer screen before discharge. An additional screen, with openings not to exceed one-fourth inch square, shall be installed in a fixed position so that all material must pass through said screen immediately before entrance into the sewer.

E. Grease, oil and sand interceptors shall be provided when, in the opinion of the wastewater manager, they are necessary for the proper handling of liquid wastes containing floatable or emulsified grease, fats or oil in amounts exceeding those specified in YMC [7.65.060\(B\)\(7\)](#), or any flammable wastes, sand or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. Such interceptors shall be provided within six months of receipt of a written request from the wastewater manager to do so. Dischargers who operate restaurants, cafes, lunch counters, cafeterias, bars or clubs; or hotel, hospital, sanitarium, factory or school kitchens; or other establishments that serve or prepare food where grease may be introduced to the sewer system shall have grease interceptors (grease traps) to prevent the discharge of fat waste, oil or grease. Take-out food establishments or other establishments that prepare food, but do not cook in oil or grease, and who serve food only in disposable containers, may be exempted

from this requirement, provided their discharges do not violate YMC [7.65.060](#) (the general discharge prohibitions) of this chapter. The grease interceptors shall be installed in the waste line leading from sinks, drains or other fixtures where grease may be discharged. All new interceptors requested by the wastewater manager shall be of a type and capacity, conforming to and described in the edition of the Uniform Building Code most recently adopted by the city, and approved by the code administration and planning manager, and shall be located as to be readily accessible for cleaning and inspection. Dischargers must maintain these interceptors in a manner that will always prevent fat waste, oil, grease, flammable wastes, sand or other harmful ingredients from being carried into the sewer system. The owner shall be responsible for the proper removal and disposal by appropriate means of the captured material, and shall maintain records of the dates and means of disposal which are subject to review by the wastewater manager. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by waste disposal firms currently licensed by the Yakima health district. The collected materials removed from such interceptors shall not be disposed of in sanitary, industrial or storm sewers. Failure to provide or maintain such grease, oil and sand traps in accordance with the provisions of this section shall be a violation of this chapter and subject to the sections set forth in Parts 8 and 9 of this chapter. (Ord. 2003-74 § 1 (part), 2003).

#### **Part 5. Fees**

##### **7.65.110 Rates, charges and fees.**

Rates, charges and fees relating to the pretreatment program established by this chapter shall be as set forth in Chapter [7.60](#). (Ord. 2003-74 § 1 (part), 2003).

#### **Part 6. Administration, Reporting and Monitoring**

##### **7.65.120 Industrial dischargers.**

- A. It is unlawful for any industrial discharger to discharge sewage, industrial wastewater or any other wastes into the city's POTW except as authorized by the city and by Chapter [173-216](#) WAC, as now, or as it may be amended.
- B. The city shall have the right to deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial dischargers where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit. New sources and new dischargers shall not be allowed to discharge without first complying with the applicable pretreatment standards and requirements. New sources and new dischargers subject to the permitting or authorization requirements of Part 7 of this chapter shall comply with those requirements.
- C. Compliance by existing sources with categorical pretreatment standards shall be within three years of the date the categorical pretreatment standard is effective unless a shorter compliance time is specified in the appropriate subpart of [40](#) CFR Chapter I, Subchapter N. Direct dischargers with NPDES permits modified or reissued to provide a variance pursuant to Section 301(i)(2) of the Act shall be required to meet compliance dates set in any applicable categorical pretreatment standard. Existing sources which become industrial dischargers subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing industrial dischargers except where

such sources meet the definition of a "new source" within the meaning of this chapter. New sources and new significant industrial dischargers shall install and have in operating condition, and shall start up all pollution control equipment required to meet applicable pretreatment standard before beginning to discharge. Within the shortest feasible time (not to exceed ninety days after the beginning of the discharge), new sources and new significant industrial dischargers must meet all applicable pretreatment standards.

D. The wastewater manager shall establish a final compliance deadline date for any existing user not covered by an applicable categorical pretreatment standard or for any categorical user when the local limits for said user are more restrictive than the applicable federal categorical pretreatment standard. Any existing industrial discharger that must comply with a more stringent local limit which is in noncompliance with any local limits shall be provided with a compliance schedule placed in a wastewater discharge permit to ensure compliance within the shortest time feasible. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.130 Industrial discharger identification and data disclosure.**

A. The wastewater manager shall develop and implement procedures to identify all possible industrial dischargers and the character and volume of the discharge from those dischargers. The wastewater manager shall develop, maintain, and report a list of industrial dischargers as required by [40 CFR 403.8\(f\)\(6\)](#). As required by [40 CFR 403.8\(f\)\(2\)\(iii\)](#), the wastewater manager shall develop and implement procedures to notify all industrial users of applicable pretreatment standards and requirements.

B. When requested by the city to do so, industrial dischargers shall complete and file with the wastewater division preliminary or follow-up industrial waste survey (IWS) signed by an authorized representative of the industrial discharger and in the form prescribed by the wastewater division. This industrial waste survey shall be filed within thirty days of being received by the industrial discharger, unless the industrial discharger requests in writing a thirty-day extension from the wastewater manager and the manager approves the request in writing. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial discharger and shall be considered a violation of this chapter. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.140 Reporting requirements for industrial dischargers.**

A. Within either one hundred eighty days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under [40 CFR 403.6\(a\)\(4\)](#), whichever is later, existing significant industrial dischargers subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the wastewater manager a report which contains the information listed in this section. At least one hundred twenty days prior to commencement of their discharge, new sources, and sources that become significant industrial dischargers subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the wastewater manager a report which contains the information listed in this section. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

The industrial discharger shall submit the information required by this section including:

1. The name and address of the facility including the name of the operator and owners.
2. A list of any environmental control permits held by or for the facility.
3. A brief description of the nature, average rate of production and standard industrial classifications of the operation(s) carried out by such industrial discharger. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
4. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from 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. A measurement of pollutants.
  - a. Identification of the categorical pretreatment standards applicable to each regulated process.
  - b. Submission of the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the city) of regulated pollutants in the discharge from each regulated process. The industrial discharger shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this subsection. Instantaneous, daily maximum and long-term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection H of this section. In cases where the pretreatment standard requires compliance with best management practices or pollution prevention alternatives, the industrial discharger shall submit documentation as required by that standard to document compliance with the standard.
  - c. Sampling must be performed in accordance with procedures set out in subsection I of this section.
  - d. The city may allow the submission of a baseline report, which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
6. A statement from the industrial discharger's authorized representative and certified by a professional engineer registered in the state of Washington, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
7. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial discharger will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. Where the industrial discharger's categorical pretreatment standard has been modified by a removal allowance (under [40 CFR 403.7](#)), the combined waste

stream formula (under [40 CFR 403.6\(e\)](#)), and/or a fundamentally different factors variance (under [40 CFR 403.13](#)) at the time the industrial discharger submits the report required under subsection A of this section, the information required by subsections (A)(6) and (7) of this section shall pertain to the modified limits. If the categorical pretreatment standard is modified by a removal allowance, the combined waste stream formula, and/or a fundamentally different factors variance after the industrial discharger submits the report required under subsection A of this section, any necessary amendments to the information requested by subsections (A)(6) and (7) of this section shall be submitted by the industrial discharger to the wastewater manager within sixty days after the modified limit is approved.

The following conditions shall apply to the schedule required by this subsection:

a. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the installation and operation of additional pretreatment facilities required for the discharger to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing installation, beginning and conducting routine operation).

No progress increment referred to above shall exceed nine months.

b. The industrial discharger shall submit a progress report to the wastewater manager no later than fourteen days following each date in the schedule and the final date of compliance including, as a minimum, whether or not the discharger complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the industrial discharger to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the wastewater manager.

8. All baseline monitoring reports must be signed and certified in accordance with subsection K of this section.

B. Within ninety days following the date for final compliance with applicable categorical pretreatment standards (deadline date for categorical dischargers published in the appropriate categorical pretreatment standards, compliance date for noncategorical dischargers established by the city) or in the case of a new source (new discharger) within thirty days of commencement of the introduction of wastewater into the POTW, any industrial discharger subject to such pretreatment standards and requirements shall submit to the wastewater manager a report containing the information described in subsections (A)(4) through (6) of this section. For industrial dischargers which may be subject to equivalent mass or concentration limits established in accordance with the procedures in [40 CFR 403.6\(c\)](#), this report shall contain a reasonable measure of the industrial discharger's long-term wastewater discharge rate. For all other industrial dischargers subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial discharger's actual wastewater discharge rate during the appropriate corresponding sampling period. All compliance reports must be signed and certified in accordance with subsection K of this section.

C. Any significant industrial discharger subject to a pretreatment standard shall, at a frequency determined by the wastewater manager in its discharge permit, but in no case less than twice per

year, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All compliance reports must be signed and certified in accordance with subsection K of this section.

1. The report shall include a record of the concentrations (and mass if specified by the city) of the limited pollutants that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations, and shall also include any additional information required by this chapter or regulations promulgated thereunder. Production data shall be reported if required by the city. Both daily maximum and average concentration (or mass, where required) shall be reported. In cases where the pretreatment standard requires compliance with best management practices or pollution prevention alternatives, the industrial discharger shall submit documentation as required by that standard to document compliance with the standard. If a discharger sampled more frequently than required by the city, it must submit all results of sampling and analysis of the discharge during the reporting period.
  2. Any industrial discharger subject to equivalent mass or concentration limits established by the city in accordance with procedures provided in [40 CFR 403.6\(c\)](#) shall submit as part of its report a reasonable measure of the discharger's long-term production rate.
  3. If the city calculated limits to factor out dilution flows or nonregulated flows, the industrial discharger shall be responsible for providing flows from the regulated process flows, dilution flows and nonregulated flows.
  4. The report shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of the normal work cycles and expected pollutant discharges to the POTW.
  5. Flows shall be reported on the basis of actual measurement; provided, however, that the city may accept reports of average and maximum flows estimated by verifiable techniques if the city determines that an actual measurement is not feasible.
  6. Sampling shall be representative of the industrial discharger's actual discharge and collected in accordance with subsection I of this section. Wastewater monitoring and flow management facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of an industrial discharger to keep its monitoring facility in good working order shall not be grounds for the industrial discharger to claim that sample results are unrepresentative of its discharge.
  7. Where the industrial discharger conducts self-monitoring, the number and frequency of monitoring shall be prescribed by the city in their discharge permit. The samples shall be processed at a laboratory accredited by the state. Alternately, at the request of the industrial permittee, the city may collect and analyze the samples as part of the required sampling and analysis under its NPDES permit and YMC [7.65.160\(E\)](#). All costs associated with such testing and analysis shall be the responsibility of the industrial discharger.
- D. Any industrial discharger subject to this chapter shall report to the wastewater division, in person or by phone, ninety days prior to any changes in its operations or processes which significantly affect

its wastewater constituents or characteristics, or storage of chemicals, and which take place after the last report, permit application or environmental survey. These changes include, but are not limited to, flow, BOD, or TSS increases of twenty percent or greater, the commencement of discharge of any prohibited or limited substance under YMC [7.65.060\(B\)](#), and the addition of any process covered by national categorical pretreatment standards. Formal written notification shall also be made to the wastewater division at least ten days prior to such change.

E. Any discharger operating under equivalent mass or concentration limits shall notify the wastewater manager within two business days after the discharger has a reasonable basis to know that the production level will significantly change within the next calendar month. Any discharger not notifying the wastewater manager of such an anticipated change shall be required to comply with the existing limits.

F. All significant industrial dischargers not subject to categorical pretreatment standards and, as deemed necessary by the wastewater manager, any minor industrial dischargers shall provide to the wastewater manager the same reports as set forth in subsection A of this section.

G. If sampling performed by an industrial discharger indicates a violation, the industrial discharger must notify the wastewater manager within twenty-four hours of becoming aware of the violation. The industrial discharger shall also repeat the sampling and analysis and submit the results of the repeat analysis to the wastewater manager within thirty days after becoming aware of the violation. Where the city has performed the sampling and analysis in lieu of the industrial discharger, the city must perform the repeat sampling and analysis within thirty days after becoming aware of the violation unless it notifies the industrial discharger of the violation and requires that discharger to perform the repeat sampling and analysis. The industrial discharger is not required to resample if the POTW performs monitoring at the industrial discharger's at least once a month, or if the POTW performs sampling between the industrial discharger's initial sampling and when the industrial discharger receives the results of this sampling.

H. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report, shall be performed in accordance with the techniques prescribed in [40 CFR Part 136](#) and WAC [173-216-125](#). If [40 CFR Part 136](#) or WAC [173-216-125](#) does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

I. Except as indicated below, the industrial discharger must collect wastewater samples using twenty-four-hour flow proportional composite collection techniques. In the event twenty-four-hour flow proportional composite sampling is infeasible, the wastewater manager may authorize the use of time proportional composite sampling or a minimum of four grab samples where the industrial discharger demonstrates that this will provide a representative sample of the actual effluent being discharged to the POTW and the wastewater manager shall document the decision to allow alternative sampling in the discharger's facility file. In addition, grab samples may be required to show compliance with instantaneous discharge limits. Samples to be analyzed for fats, oil and grease (FOG), temperature, pH, cyanide, phenols, toxicity, sulfides, metals and volatile organic compounds shall be obtained using grab collection techniques.

1. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the city. For dischargers subject to categorical pretreatment standards, if other wastewaters are mixed with the regulated wastewater prior to pretreatment the discharger should measure the flows and concentrations necessary to allow use of the combined waste stream formula of [40 CFR 403.6\(e\)](#) in order to evaluate compliance with the applicable pretreatment standards.

2. All sample results shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges from the industrial discharger. If a discharger subject to the reporting requirements in and of this section monitors any pollutant more frequently than required by the city, it must submit the results of this extra sampling and analysis of the discharge as part of its self-monitoring report.

J. The wastewater manager may use a wastewater grab sample(s) to determine noncompliance with applicable pretreatment standards.

K. Any reports required by this chapter and submitted by the industrial discharger shall be signed by an authorized representative of the discharger. Any person signing the report shall make the following certification:

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

L. Written reports shall be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern. The wastewater manager shall develop and implement procedures to receive and analyze reports and other notices submitted by industrial dischargers. (Ord. 2007-26 § 1 (part), 2007: Ord. 2003-74 § 1 (part), 2003).

#### **7.65.150 Monitoring equipment.**

A. The city may require a discharger to install and operate, at the discharger's own expense, monitoring equipment to allow inspection, sampling and flow measurement of all discharges into the sewer system, to assure compliance with this chapter. The monitoring equipment shall be situated on the discharger's premises, except that if such a location would be impractical or cause undue hardship on the discharger, the city may allow such equipment to be installed in an accessible public street or sidewalk area.

B. There shall be ample room in or near such monitoring equipment to allow accurate wastewater sampling and preparation of samples for analysis by the discharger and the city. The monitoring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the discharger.

C. All monitoring equipment shall be installed and maintained in accordance with all applicable standards and specifications. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.160 Inspection and sampling.**

A. To assess compliance with this chapter, independent of any information provided by an industrial discharger, the city shall have the right to inspect, conduct surveillance of, and collect wastewater samples from all monitoring equipment, sewer lines and plant facilities, and to examine and copy any discharge related records, during all hours that a discharger is operating or whenever employees are on the premises. The city will normally schedule such inspections upon seven days' notice, but, if deemed appropriate or necessary, shall have the right to make unscheduled inspections without prior notice. A permitted or authorized discharger, as a condition of their permit, shall sign a form provided by the city, that allows authorized city employees right of entry to the discharger's facility to carry out the duties of the wastewater division under this chapter. The city shall have the right to erect or install, on the discharger's property, such devices as are reasonably necessary to conduct sampling, inspection, compliance monitoring or metering operations. It will be unlawful under this chapter to interfere with any city sampling equipment or samples.

B. Where an industrial discharger has security measures in force which require proper identification and clearance before entry into its premises, the industrial discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the city, state, and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.

C. Failure to allow inspection, sampling, monitoring, metering or copying as authorized by this section shall be grounds for termination of wastewater treatment services as well as any other enforcement action authorized under this chapter and deemed appropriate by the wastewater manager.

D. If the wastewater manager has been refused access to a building, structure or property or any part thereof, and if the wastewater manager has demonstrated probable cause to believe that there may be a violation of this chapter or that there is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this chapter or any permit or order issued hereunder, then upon application by the city attorney, judge of a competent jurisdiction will issue a search and/or seizure warrant describing herein the specific location subject to the warrant. The warrant will specify what, if anything, may be searched and/or seized on the property described. Such warrant will be served at reasonable hours by the wastewater manager in the company of an uniformed police officer of the city. In the event of an emergency affecting the public health and safety, inspections will be made without the issuance of a warrant.

E. The wastewater manager shall develop and implement procedures to randomly sample and analyze the effluent from industrial users and conduct surveillance activities to better identify, independent of information supplied by industrial dischargers, occasional and continuing noncompliance with applicable pretreatment standards. The wastewater manager shall inspect, and collect and analyze effluent samples from each significant industrial discharger at least once per year.

The wastewater manager shall investigate instances of noncompliance indicated by information provided by industrial dischargers and by the wastewater manager's independent inspection, sampling, and analysis. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.165 Vandalism.**

No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in this chapter. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.170 Confidential information.**

A. Information and data furnished to the city with respect to the nature and frequency of discharge will be available to the public or other governmental agency without restriction unless the discharger specifically requests and is able to demonstrate that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the discharger under the laws or regulations of the state or federal government. If a discharger furnishing a report requests that information provided as part of a report be kept confidential, and the discharger marks said pages as "confidential," then the portions so marked of a report or other information which may disclose trade secrets or secret processes protected by state or federal law, will not be made available for inspection by the public, subject to the provisions of Chapter [42.17](#) RCW, as now or as it may be amended, but will be made available upon written request to governmental agencies for uses related to this chapter, the NPDES permit, state waste discharge permit and/or the pretreatment programs; provided, however, that such portions of a report or other information will be available for use by the state or any state agency in judicial review or enforcement proceedings involving the discharger furnishing the report. Wastewater constituents and characteristics, other "effluent data" as defined by [40 CFR 2.302](#), and information for which claims of confidentiality must be denied pursuant to WAC [173-216-080](#) shall not be recognized as confidential information and shall be available to the public without restriction.

B. Information accepted by the city as confidential will not be transmitted to any governmental agency or to the general public by the city until and unless a ten-day notification is given to the discharger. Once notice of intent to release information has been given to the discharger, if the discharger fails to contest the release, then any rights created by this section shall be deemed to have been waived. (Ord. 2003-74 § 1 (part), 2003).

### **Part 7. Wastewater Discharge Permits and Authorizations**

#### **7.65.180 Wastewater discharge permit and authorization determination.**

A. All new nonresidential dischargers (domestic and nondomestic) shall submit a completed preliminary industrial waste survey to the wastewater division for its review and determination of whether a wastewater discharge permit or authorization is required. This industrial waste survey shall be filed within thirty days of being received by the industrial discharger, unless the industrial discharger requests in writing a thirty-day extension from the wastewater manager and the manager approves the request in writing. The preliminary industrial waste survey shall be signed by an

authorized representative of the nonresidential discharger and in the form prescribed by the wastewater division.

The wastewater manager may require either additional information or a follow-up industrial waste survey (IWS), as described in YMC [7.65.184\(B\)](#). Should the wastewater manager approve the IWS, it shall satisfy YMC [7.65.184\(B\)\(1\)](#) for purposes of applying for a wastewater discharge authorization, if applicable. Existing nonresidential dischargers shall submit a preliminary IWS when requested to do so by the city, (see YMC [7.65.130\(B\)](#)).

1. Permit Required. Should the wastewater manager determine that a permit is required, the discharger shall comply with YMC [7.65.185](#), [7.65.190](#), and [7.65.195](#) with respect to such permit.
2. Authorization Required. Should the wastewater manager determine that a written authorization is required for any nonresidential (domestic or nondomestic) discharge, including a temporary discharge, the wastewater manager shall determine which of the terms and conditions in YMC [7.65.190](#) and [7.65.195](#), or any other section of this chapter apply. All wastewater discharge authorizations shall comply with YMC [7.65.184](#).

When a wastewater discharge authorization is not required it shall not relieve any discharger to the POTW from the requirement to apply all known, available, and reasonable methods to prevent and control waste discharges to the waters of the state, or the requirement to obtain approval of plans and reports for the construction of wastewater facilities, or any other applicable requirement contained in this chapter or state or federal law. Nothing herein shall limit the authority of the city to take enforcement action for any unlawful discharge of waste materials or other violations of this chapter. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.184 Wastewater discharge authorization required.**

A. Authorizations. The wastewater manager may authorize long-term, short-term or temporary wastewater discharges into the city's sewer system. All authorized wastewater discharges shall comply with pretreatment standards and regulations (YMC [7.65.060](#)), limitations on wastewater strength (YMC [7.65.070](#)), and protect the POTW from slugload or accidental discharges (YMC [7.65.080](#)). Failure to comply shall subject the discharger to the enforcement provisions of Part 8 of this chapter and all industrial dischargers located outside of the city's boundaries that receive authorization to discharge from the city shall accept the city's authority to impose those enforcement provisions as a condition to discharging wastewater into the city's sewer system. The wastewater manager may condition the authorization as necessary to comply with the provisions of this chapter, and may deny requests under this section on the grounds that the discharge would violate any provision of this chapter.

B. Discharge Authorization Procedure.

1. Dischargers must submit a completed industrial waste survey (IWS) to the wastewater manager. The survey shall include a complete written description of the proposed project, including the reason for the discharge, rate and duration of the discharge, a site map and plumbing plan showing the location and method to discharge the wastewater, a legal description

of the property, and the name and phone number of a contact person. The survey shall also contain the following:

- a. An analysis of the water to be discharged;
  - b. Volume of wastewater for discharge.
2. The survey shall be signed by an authorized representative of the discharger.
  3. The wastewater manager shall review the survey for completeness and, within thirty days, may return to the applicant any incomplete survey with a request for information necessary to complete the survey. Any survey not so returned shall be deemed complete. If returned, the survey shall not be considered complete unless and until the discharger resubmits the survey with the requested information.
  4. Further information or applications may be requested from the discharger by the wastewater manager to help determine the status of the discharger or to assist in setting the terms and conditions of the authorization.
  5. Authorization Terms and Conditions. A wastewater discharge authorization shall include conditions as are deemed reasonably necessary by the wastewater manager to prevent pass through or interference, protect the quality of POTW's receiving water body, protect worker health and safety, facilitate biosolids management and beneficial reuse, and protect against damage to the POTW. The wastewater manager may include any requirement of YMC [7.65.195](#) or any other section of this chapter to achieve these goals.
  6. Notification of a change in the volume or constituents of any authorized discharge shall be made thirty days in advance of the change to provide the wastewater manager time to consider if a new authorization will be required (see YMC [7.65.140\(D\)](#)). (Ord. 2007-26 § 1 (part), 2007: Ord. 2003-74 § 1 (part), 2003).

#### **7.65.185 Wastewater discharge permit required.**

A. Permit Required of all Significant Industrial Dischargers. On and after the date of full delegation, no significant industrial discharger shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the wastewater manager. Any violation of the terms or conditions of a wastewater discharge permit shall be deemed a violation of this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all applicable federal and state standards or with any other applicable requirement of this chapter or federal or state law.

1. Existing Significant Industrial Dischargers. Any existing significant industrial discharger holding a valid wastewater discharge permit that will expire on or after the date of full delegation shall submit a complete permit application in accordance with YMC [7.65.190](#) at least ninety days prior to the expiration of the then-existing permit; provided, that if such renewal will involve an increase in volume or a change in the characteristics of discharges beyond those previously authorized, then the industrial discharger shall submit a complete permit application in accordance with YMC [7.65.190](#) at least one hundred twenty days prior to the expiration of the then-existing permit.

2. A significant industrial discharger whose existing wastewater discharge permit has expired and who has submitted its reapplication in the time period specified herein shall be deemed to have an effective wastewater discharge permit until the city issues or denies the new wastewater discharge permit. A significant industrial discharger whose permit has expired and who failed to submit its reapplication in the time period specified herein will be deemed to be in violation of this chapter. As of June 15, 2003, any existing significant industrial discharger that does not possess a current, valid wastewater discharge permit (issued either by the city or by Ecology) and that intends to continue such discharge shall immediately submit a complete permit application to the city in accordance with YMC [7.65.190](#).

3. New Significant Industrial Dischargers. At least one hundred twenty days prior to the anticipated start-up, any new source which shall become a significant industrial discharger on or after the date of full delegation shall submit a complete permit application in accordance with YMC [7.65.190](#). Such new source shall not discharge wastewater to the POTW without first receiving a wastewater discharge permit from the city. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.190 Wastewater discharge permitting process.**

##### **A. Permit Application.**

1. Applications for permits shall be on forms as prescribed and provided by the wastewater division. At a minimum, the applicant shall provide all information required by YMC [7.65.140\(A\)](#).

2. The applicant must pay applicable fees pursuant to YMC [7.65.110](#) and Chapter [7.60](#) of the Yakima Municipal Code.

3. The application shall be signed by an authorized representative of the discharger.

4. The authorized representative shall sign the following declaration:

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

5. The wastewater manager shall review the application for completeness and, within thirty days, may return to the applicant any incomplete application with a request for information necessary to complete the application. Any application not so returned shall be deemed complete. If returned, the application shall not be considered complete unless and until the applicant resubmits the application with the requested information.

##### **B. Public Notice.**

1. No earlier than five business days after the wastewater discharge permit application is deemed complete, the city shall publish notice of that application in such a manner to inform and seek comments from interested and potentially interested persons. This public notice

requirement does not apply to a permit renewal, if there are no increases in volume or changes in characteristics of discharges beyond those previously authorized.

2. The public notice will include the following:

- a. Name and address of the applicant, and if different, of the facility or activity to be permitted;
- b. Brief description of the applicant's activities or operations that result in the discharge described in the application (e.g., steel manufacturing, fruit packing, livestock feeding operation);
- c. A brief description of the discharge point(s);
- d. A brief description of the procedures for the formulation of a final determination, including the applicable comment period and any means by which interested persons may comment upon that determination; and
- e. Address and phone number of the wastewater division, from which interested persons may obtain further information.

3. Circulation of public notice shall include at least publishing once a week for two consecutive weeks, a public notice in the newspaper of greatest circulation in the area of the proposal.

4. The wastewater division may provide the following additional public notification requirements:

- a. Mailing the notice to persons who have expressed an interest in being notified;
- b. Mailing the notice to other government agencies with a regulatory interest in the proposal; and
- c. Posting the notice on the premises.

5. The public notice shall include a statement that any person may express their views in writing to the wastewater division within thirty days of the last date of publication.

6. Any person submitting written comment or any other person may, upon request, obtain a copy of the wastewater manager's final decision.

7. The wastewater division shall add the name of any person, upon request, to a mailing list to receive copies of all notices for all applications within particular geographical areas served by the POTW.

C. Public Hearing.

1. Any interested person may request a public hearing with respect to permit applications for which notice is required pursuant to subsection B of this section. Any such request for a public hearing shall be filed within thirty days of the last date of publication required pursuant to

subsection B of this section and shall indicate the interest of the party filing such request and the reason a hearing is warranted.

2. The wastewater manager shall hold a hearing if he or she determines there is a significant public interest.
3. Any hearing held pursuant to this chapter shall be held at a place and time deemed appropriate by the city.
4. Public notice of any hearing held pursuant to this chapter shall be circulated at least as widely as the notice of the application.
5. Procedures for the circulation of public notice for hearings shall include at least the following:
  - a. Notice shall be published once, at least thirty days in advance of the hearing, in the newspaper of greatest circulation within the area of the proposal;
  - b. Notice shall be sent to all persons and agencies to whom individual notice of the permit application was given pursuant to this section;
  - c. Notice shall be mailed to any person who submitted written comment on the application or who requested notice of the wastewater manager's final decision; and
  - d. Notice shall be mailed at least thirty days in advance of the hearing.
6. The contents of public notice of any hearing held pursuant to this section shall include at least the following:
  - a. Name, address and phone number of the city contact holding the public hearing;
  - b. The purpose of the hearing;
  - c. Name and address of the applicant;
  - d. A brief description of the point(s) of discharge;
  - e. Information regarding the time and location of the hearing;
  - f. A brief description of the nature of the hearing;
  - g. A concise statement of the issues raised by the persons requesting the hearing, when applicable;
  - h. A brief reference to the public notice issued for each application, including identification number and date of issuance; and
  - i. The address and phone number of the wastewater division, from which interested persons may obtain information.

D. Final Permit Decision. Within sixty days of the last date of publication required pursuant to subsection B of this section or, if a public hearing is held pursuant to subsection C of this section within sixty days of that hearing, the wastewater manager shall either issue or deny the requested permit. Where public notice is not required pursuant to subsection B of this section, the wastewater manager shall either issue or deny the requested permit no later than sixty days after the wastewater discharge permit application is deemed complete. The wastewater manager shall mail notice of the final permit decision to any person who submitted written comment on the application, testified at any public hearing regarding the application, or any other person who requested notice of the decision. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.195 Wastewater discharge permit contents, transfer and modification.**

##### **A. Permit Terms and Conditions.**

1. Any discharge permit issued by the city shall include such conditions as are reasonably deemed necessary by the wastewater manager to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate biosolids management and beneficial reuse, and protect against damage to the POTW, including without limitation:
  - a. A statement that indicates the duration of the permit, which in no event shall exceed five years;
  - b. A statement that the wastewater discharge permit is nontransferable without compliance with subsection (B) of this section;
  - c. All known available and reasonable methods of prevention, control and treatment;
  - d. Applicable pretreatment requirements and local discharge limits, including best management practices, and prohibited discharge requirements pursuant to this chapter;
  - e. Self-monitoring, sampling, reporting, notification, technical report submittal, compliance schedules, and record-keeping requirements. These requirements shall identify pollutants to be monitored, sampling locations, sampling frequency, and sample type based on federal, state, and city law;
  - f. Requirements pursuant to other laws including the state's Hazardous Waste Disposal Act, Chapter [70.105](#) RCW, the Solid Waste Management Act, Chapter [70.95](#) RCW, the federal Resource Conservation and Recovery Act of 1976, Public Law 95-190, or any other applicable local ordinances or state or federal statutes, to the extent that they pertain to the prevention or control of waste discharges into the waters of the state;
  - g. Any conditions necessary to meet applicable water quality standards for surface waters;
  - h. Requirements necessary to avoid conflict with a plan approved pursuant to Section 208(b) of the Act;
  - i. Any conditions necessary to prevent and control pollutant discharges from plant site runoff, spillage or leaks, sludge or waste disposal, or raw material disposal;

- j. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements or any applicable compliance schedule; and
  - k. Requirements to control slug discharges, if determined by the wastewater manager to be necessary.
2. As a condition of their permit and as required in YMC 7.65.160, the permittee shall allow the wastewater manager, upon the presentation of credentials and other documents as may be required by law, which may include a judicial inspection warrant, to:
- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;
  - b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
  - c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit;
  - d. Have the right to sample or monitor waste discharges for the purposes of assuring permit compliance at any location; and
  - e. Inspect any production, manufacturing, fabricating or storage area where pollutants, regulated under the permit, could originate, be stored, or be discharged to the POTW.
3. The permittee shall, at all times, be responsible for the proper operation and maintenance of any facilities or systems of control installed by the permittee to achieve compliance with the conditions of the permit. Where design criteria have been established, the permittee shall not permit flow or waste loadings to exceed approved designed criteria or approved additions thereto.
4. A new application or supplement to the previous application shall be submitted along with required engineering plans and reports, whenever a new or increased discharge or change in the nature of the discharge is anticipated that is not specifically authorized by the current permit. Such application shall be submitted at least sixty days prior to proposed changes.
5. In the event the permittee is unable to comply with any of the permit terms and conditions due to any cause, the permittee shall:
- a. Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the violation, and correct the problem;
  - b. Immediately notify the wastewater division of the failure to comply; and
  - c. Submit a detailed written report to the wastewater division within thirty days, unless requested earlier by the wastewater division, describing the nature of the violation, corrective action taken to prevent a recurrence, and any other pertinent information.
- B. Transfer of a Permit.

1. A permit is automatically transferred to a new owner or operator of the facility if:
    - a. A written agreement, signed by the new owner, between the old and new owner or operator, containing a specific date for transfer of permit responsibility, coverage and liability, is submitted to the wastewater division at least sixty days prior to the specified transfer date; and
    - b. The wastewater division does not notify the permittee of the need to modify or revoke and reissue the permit.
  2. Unless a permit is automatically transferred according to subsection (B)(1) of this section, a permit may be transferred only if the permit is modified or revoked and reissued to incorporate such other requirements as determined necessary by the wastewater division.
- C. Modification, Suspension, Revocation and Voiding of Permits.
1. The wastewater division may modify a permit, including the schedule of compliance or other conditions, if it determines good and valid cause exists, which includes, but is not limited to, promulgation or revisions of categorical standards, the issuance of a special order, a change in the POTW, and alterations or additions to the discharger's discharges.
  2. Any permit issued under this chapter may be suspended or revoked, in whole or in part, by the wastewater division for, but not limited to, the following reasons:
    - a. Violation of any permit term or condition;
    - b. Obtaining a permit by misrepresentation or failure to fully disclose all relevant facts;
    - c. A material change in quantity or type of waste disposal;
    - d. Nonpayment of fees associated with the permit;
    - e. Failure to notify the city of significant changes to the discharge prior to implementing that change;
    - f. Falsifying reports;
    - g. Tampering with monitoring equipment;
    - h. Intentionally providing nonrepresentative samples;
    - i. Refusing to allow the city access to the facility premises and records; or
    - j. Failure to meet a compliance schedule.
  3. Wastewater discharge permits shall be voidable upon cessation of operations. All wastewater discharge permits issued to a particular discharger are void upon the issuance of a new discharge permit to that user. (Ord. 2007-26 § 1 (part), 2007: Ord. 2003-74 § 1 (part), 2003).

#### **7.65.198 Revision of the wastewater discharge permit program.**

The permit program contained in this chapter shall be revised, as necessary and to the satisfaction of Ecology, to conform with any changes in applicable rules and regulations that may be adopted by Ecology or the federal government subsequent to the grant of authority to the city to administer the wastewater discharge permit program. The city shall submit all amendments of implementing ordinances or resolutions to Ecology for approval prior to passage. (Ord. 2003-74 § 1 (part), 2003).

## **Part 8. Administrative Enforcement**

### **7.65.200 Notification of violation.**

Whenever the wastewater manager finds that any discharger has violated or is violating this chapter, or an order issued hereunder, the wastewater manager may serve upon said discharger written notice of the violation. Within ten days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the wastewater manager. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. (Ord. 2003-74 § 1 (part), 2003).

### **7.65.210 Consent orders.**

A. The wastewater manager is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the discharger responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Such schedules may not extend the compliance date beyond applicable federal deadlines. Consent orders shall have the same force and effect as compliance orders issued pursuant to YMC [7.65.220](#) and shall be judicially enforceable.

B. Failure to comply with any terms or requirements of a consent order by the discharger shall be an additional and independent basis for termination of wastewater treatment services or for any other enforcement action authorized under this chapter and deemed appropriate by the wastewater manager. (Ord. 2003-74 § 1 (part), 2003).

### **7.65.220 Compliance orders.**

A. When the wastewater manager finds that a discharger has violated or continues to violate this chapter or any order issued hereunder, he may issue a compliance order to the discharger responsible for the violation directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and are properly operated and maintained. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. In establishing the compliance schedule in the compliance order, the wastewater manager will consider applying to the schedule the conditions provided in YMC [7.65.140\(A\)\(7\)](#). A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a

compliance order release the discharger of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the discharger.

B. Failure to comply with any terms or requirements of a compliance order by the discharger shall be an additional and independent basis for termination of wastewater treatment services or for any other enforcement action authorized under this chapter and deemed appropriate by the wastewater manager. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.230 Cease and desist orders.**

When the wastewater manager finds that a discharger has violated or continues to violate this chapter or any order issued hereunder, the wastewater manager may issue an order to cease and desist all such violations and direct those persons in noncompliance to: (1) comply forthwith; and (2) take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the wastewater discharge. Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the discharger. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.240 Administrative penalties.**

Notwithstanding any other section of this chapter, any discharger who is found by the wastewater manager to have violated any provision of this chapter, or orders issued hereunder, shall be penalized in the amount not to exceed one thousand dollars per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the discharger's next scheduled sewer service charge and the wastewater manager shall have such other collection remedies as he has to collect other service charges. Unpaid charges and penalties shall constitute a lien against the individual discharger's property. Issuance of an administrative penalty shall not be a prerequisite for taking any other action against the discharger. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.250 Recovery of costs incurred by the city.**

Any discharger violating any of the provisions of this chapter who discharges or causes a discharge producing a deposit or obstruction or causes damage to or impairs the city's POTW shall be liable to the city for any reasonable expense, loss, fines or damage caused by such violation or discharge. The city will bill the discharger for the cost incurred by the city for any cleaning, repair, replacement work or other damages caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this chapter enforceable under the provisions of Parts 8 and 9 of this chapter. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.260 Emergency suspension of treatment services.**

A. The wastewater manager may order the suspension of wastewater treatment service after informal notice to the discharger if it appears to the city that an actual or potential discharge: (1) presents or threatens a substantial danger to the health or welfare of persons or to the environment; or (2) threatens to interfere with the operation of the POTW or to violate any pretreatment limits imposed by this chapter.

B. Any discharger notified of a suspension of the wastewater treatment service shall cease immediately all wastewater discharges. In the event of a discharger's failure to comply immediately and voluntarily with the suspension order, the wastewater manager will take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage, including, but not limited to, the POTW, its biosolids or receiving waters, or endangerment to the health and welfare of any individuals. The city shall have the right of access onto the discharger's private property to accomplish such severance of the sewer line. The wastewater manager will allow the discharger to recommence its wastewater discharge when the endangerment has passed, unless the termination proceedings set forth in YMC [7.65.270](#) are initiated against the discharger.

C. It is unlawful for any person to prevent or attempt to prevent the city from terminating wastewater treatment service in an emergency situation, by barring entry, by physically interfering with city employees or contractors, or by any other means.

D. Any discharger whose wastewater treatment service has been suspended pursuant to this section shall have the right to a post-suspension hearing to be conducted in accordance with the procedures set forth in YMC [7.65.280](#). A discharger which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the wastewater manager prior to the date of the post-suspension hearing. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.270 Termination of treatment services.**

A. The wastewater manager shall have authority to terminate wastewater treatment services for any discharger if it determines that the discharger has:

1. Failed to accurately report wastewater constituents and characteristics;
2. Failed to report significant changes in operations or wastewater constituents or characteristics;
3. Refused reasonable access to the discharger's premises for purposes of inspection, monitoring or sampling;
4. Violated any condition of the discharger's waste discharge permit;
5. Violated any of the provisions of this chapter; or
6. Violated any lawful order of the city issued with respect to the chapter.

In the event any discharger declines to allow access to the discharger's premises for inspection, monitoring, or sampling, the wastewater manager shall not enter such premises without first obtaining a duly issued judicial warrant.

B. The discharger shall be given written notice of the city's decision (and basis or bases therefor) to terminate wastewater services and shall have the right to a pretermination hearing in accordance with the provisions of YMC [7.65.280](#). (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.280 Administrative hearing.**

A. A discharger shall have the right to an administrative hearing to contest the city's determination: (1) to suspend the discharger's wastewater services; (2) to terminate the discharger's wastewater services; (3) to impose administrative penalties against the discharger; (4) to bill the discharger for costs incurred by the city as a result of the discharger's violation or discharge; or (5) that the discharger has violated a consent, compliance, or cease and desist order.

B. Any hearing pursuant to this section must be requested by the discharger in writing within fifteen days after the discharger receives notice of the city's determination. The discharger's written request for hearing shall be filed with the wastewater manager. Failure to submit a timely notice shall be deemed to be a failure to exhaust administrative remedies and shall preclude any further review. The city will conduct the hearing within twenty days of the receipt of the request (or within five days if the discharger is contesting suspension or termination of wastewater services).

C. The administrative hearing authorized by this section will be held before the city manager or the city manager's designee. Formal rules of evidence will not apply but the discharger and the city shall have the right to present witnesses and documentary evidence. The city manager or the city manager's designee will issue a written decision within ten days of the conclusion of the hearing.

D. Any discharger requesting a hearing shall have the right to make an electronic or stenographic record of the proceedings. Such record shall be made at the discharger's expense.

E. Except as otherwise provided, all decisions by the city manager or city manager's designee shall be final and conclusive on all parties unless appealed to the city council under YMC [7.65.285](#). (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.285 Appeal to the city council.**

A. Any decision of the city manager or the city manager's designee rendered pursuant to YMC [7.65.280](#) may be reviewed by appeal to the city council. The discharger must file written notice of appeal with the clerk of the city council within fifteen days following notification of such decision or action. Such notice of appeal shall set forth in reasonable detail the action or decision appealed and the discharger's grounds for reversal or modification thereof. Failure to submit a timely notice shall be deemed to be a failure to exhaust administrative remedies and shall preclude any further review.

B. Following receipt of such notice, the clerk of the city council will schedule a date for a public meeting by the city council at which time the city council shall consider the appeal. The date of the public meeting should be not later than twenty days following the date the clerk of the city council receives notice of the appeal. The clerk of the city council will mail written notice to all parties of record to apprise them of the meeting date before the city council.

C. City council review of the facts shall be limited to evidence presented to the city manager or the city manager's designee. The city council may request additional information or memoranda in order to reach a decision; provided, that all parties of record are given an opportunity to respond to the material provided.

D. At the public meeting the city council may adopt, amend and adopt, reverse, amend and reverse the findings, conclusions and decision of the city manager or the city manager's designee or remand the matter to the city manager or the city manager's designee. (Ord. 2003-74 § 1 (part), 2003).

**7.65.290 Judicial review.**

A. The decision of the city council on an appeal of the decision of the city manager or the city manager's designee shall be final and conclusive unless within twenty days from the date of final action, the discharger files a petition for review in a court of competent jurisdiction in the manner prescribed by law. (Ord. 2003-74 § 1 (part), 2003).

**7.65.300 Publication of enforcement actions.**

A list of all dischargers that experience a significant violation of applicable pretreatment standards or other pretreatment requirements during the previous twelve months shall be published, at least annually, by the city in the largest local daily newspaper of general circulation. For the purposes of this provision, a violation is a significant violation which meets one or more of the following criteria:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the wastewater measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by [40 CFR 403.3\(l\)](#) for the same pollutant parameter;
2. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the wastewater measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by [40 CFR 403.3\(l\)](#) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
3. Any other discharge violation of a pretreatment standard or requirement, as defined by [40 CFR 403.3\(l\)](#) (daily maximum, longer-term average, instantaneous limit or narrative standard) that the city determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of the POTW 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 exercise of its emergency authority under YMC [7.65.260](#) to halt or prevent such a discharge;
5. Failure to meet, within ninety days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance;
6. Failure to provide, within forty-five days after the due date, required reports such as baseline monitoring reports, compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance;
8. Failure to maintain records of pretreatment facility maintenance, including, but not limited to, cleaning and waste removal dates, and means of disposal of accumulated wastes; or

9. Any other violation or group of violations which causes the city to expend considerable time or expense in tracking down the source of pollutants detected in the POTW wastewater influent, or which the city determines will adversely affect the operation or implementation of its pretreatment program. (Ord. 2007-26 § 1 (part), 2007; Ord. 2003-74 § 1 (part), 2003).

#### **7.65.310 Performance bonds and liability insurance.**

The wastewater manager may decline to reinstate wastewater treatment services for any discharger who has had its services suspended or terminated under the provisions of this chapter unless such discharger, at the discretion of the wastewater manager, either: (1) first files with the wastewater manager a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the wastewater manager to be necessary to achieve consistent compliance; or (2) first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.320 Operating upsets.**

A. Any discharger that experiences an upset shall inform the wastewater manager of the upset within twenty-four hours of discovering the upset. Where such information is given orally, a written report describing the upset shall be filed with the wastewater manager by the discharger within five days after the discovery. This report shall be based on properly signed, contemporaneous operating logs or other relevant evidence and shall include:

1. A description of the upset, the cause of the upset and the impact of the upset on the discharger's compliance with this chapter.
2. The duration of noncompliance (including exact dates and times) and, if noncompliance is continuing, the time by which the discharger expects to be in compliance.
3. All steps which have been taken or will be taken to prevent the recurrence of the upset.
4. Evidence that the facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.

B. A timely documented and properly verified operating upset shall be an affirmative defense to any enforcement action brought by the city against the discharger for failure to comply with this chapter to the extent that the enforcement action arises out of violations which occurred during the period of upset; provided, however, that such an upset shall not relieve the discharger of any other liability for the upset including, but not limited to, liability for damages sustained by the POTW, the city or third persons. In any enforcement proceeding, the discharger seeking to establish the occurrence of an upset shall have the burden of proof. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.330 General/specific prohibitions.**

A discharger shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibition against interference and pass through found in YMC [7.65.060](#)(B), or with the specific prohibitions found in YMC [7.65.060](#)(B)(2), (7), (8), (10) and (13), if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (1) a local

limit exists under YMC [7.65.070](#)(E) for each pollutant discharged and the discharger was in compliance with each limit directly prior to, and during, the pass through or interference, or (2) no local limit exists under YMC [7.65.070](#)(E), but the discharge did not change substantially in nature or constituents from the discharger's prior discharge when the city was regularly in compliance with its NPDES permit requirements, and in the case of interference, was in compliance with applicable biosolids use or disposal requirements. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.340 Bypass.**

A. A discharger may allow any bypass to occur which does not cause the pretreatment standards or requirements of YMC [7.65.060](#) and [7.65.070](#) to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections B and C of this section.

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

C. Bypass is prohibited, and the city may take enforcement action against a discharger for a bypass, unless:

1. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
3. The discharger submitted notices as required under subsection B of this section.

The wastewater manager may approve an anticipated bypass, after considering its adverse effects, if the wastewater manager determines that it will meet the three conditions listed in this subsection. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.350 Records retention.**

All dischargers subject to this chapter shall retain and preserve for no less than six years any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or on behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of an enforcement action

or litigation shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired, but in no case less than six years. (Ord. 2003-74 § 1 (part), 2003).

## **Part 9. Judicial Enforcement**

### **7.65.360 Judicial remedies.**

If any person discharges sewage, industrial wastes or other wastes into the city's wastewater collection or treatment system contrary to the provisions of this chapter or any order issued hereunder, the wastewater manager, through the city attorney, may commence an action for appropriate legal and/or equitable relief in the court having jurisdiction over the matter (the city of Yakima municipal court or the Yakima County superior court). Such judicial action may be in lieu of or in addition to any other administrative enforcement action authorized herein. (Ord. 2007-26 § 1 (part), 2007: Ord. 2003-74 § 1 (part), 2003).

### **7.65.370 Injunctive relief.**

Whenever a discharger has violated or continues to violate the provisions of this chapter or order issued hereunder, the wastewater manager, through counsel, may petition the court having jurisdiction over the matter (the city of Yakima municipal court or the Yakima County superior court) for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the discharger. The wastewater manager shall have such remedies to collect fees as associated with legal costs as it has to collect other sewer service charges. Such other action as appropriate for legal and/or equitable relief may also be sought by the city. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a discharger. (Ord. 2007-26 § 1 (part), 2007: Ord. 2003-74 § 1 (part), 2003).

### **7.65.380 Civil penalties.**

A. Any discharger who has violated or continues to violate an order of the city, or who fails to comply with: (a) any provision of this chapter, or (b) any rule or order of the city, issued pursuant to this chapter, shall be liable to the city for a civil penalty. The amount of such civil penalty shall be up to one thousand dollars per violation, plus actual damages incurred by the POTW. Each day upon which a violation occurs or continues shall constitute a separate violation. Unpaid civil penalties shall constitute a lien against the individual discharger's property. In addition to the above-described penalty and damages, the wastewater manager may recover reasonable attorney's fees, court costs and other expenses associated with the enforcement activities, including sampling and monitoring expenses. A discharger's failure to pay such civil penalties shall be grounds for termination of wastewater services.

B. The wastewater manager will petition the court to impose, assess and recover such civil penalties. In determining the amount of liability, the court will take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the discharger's violation, corrective actions by the discharger, the compliance history of the discharger, the city's enforcement response manual (ERP), which provides guidelines for the assessment of monetary penalties, if available, and any other factor as justice requires.

C. Filing a suit for civil liabilities shall not be a prerequisite for taking any other action against a discharger. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.390 Falsifying information.**

Any person who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter (in addition to civil and/or criminal penalties otherwise provided by law) shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars per violation per day plus costs of prosecution or imprisonment not to exceed ninety days or both. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.400 Criminal penalties.**

Any person who willfully, knowingly, recklessly or negligently violates any provision of this chapter through any act or omission shall, upon conviction, be guilty of a gross misdemeanor, punishable by a fine of not more than five thousand dollars or imprisonment not to exceed one year, or by both such fine and imprisonment. Each violation and each day of each violation shall constitute a separate offense. (Ord. 2006-07 § 28, 2006: Ord. 2003-74 § 1 (part), 2003).

#### **7.65.410 Remedies nonexclusive.**

The provisions in Parts 8 and 9 of this chapter are not exclusive remedies. The city reserves the right to take any, all, or any combination of these actions against a noncompliant discharger. (Ord. 2003-74 § 1 (part), 2003).

### **Part 10. Additional Provisions**

#### **7.65.420 Septage and liquid waste hauling requirements.**

A. It is unlawful for any person, firm or corporation to engage in the business of cleaning or pumping out private wastewater disposal systems in the city or to remove, transport or dispose of septage from private wastewater disposal systems by transporting the same across or along any of the streets, alleys or public ways of the city without having first complied with the terms of this section. It is unlawful for anyone to discharge any trucked or hauled waste including, but not limited to, septage from private wastewater disposal systems at any location within the city service area, except at discharge points specifically designated by the POTW or which have been approved in writing by the wastewater manager. Anyone discharging any trucked or hauled waste into the city's wastewater collection or treatment system must comply with the pretreatment standards and requirements set forth in this chapter.

B. No person, firm or corporation engaged in septage hauling will be allowed to discharge septage into the POTW unless they comply with the following septage hauling requirements:

1. Hold a valid septage hauling permit from the Yakima health district;

2. Carry liability insurance of such kind and in such amount as the city may require to protect itself from any loss or damage that may directly or indirectly be occasioned by the discharge of septage into the POTW;
  3. Complete a septage waste manifest (in triplicate) obtained from the wastewater division prior to arrival at the POTW; and
  4. Prevent the commingling of industrial wastewater, process wastewater, biosolids and domestic wastewater. Any wastewater collected from a business or industry must receive a written authorization from the wastewater manager before surcharge into the POTW is allowed. Any wastewater collected from a business or industry must be discharged into the POTW first before wastewater from another business or industry is collected.
- C. The city shall have the right to inspect and sample any trucked or hauled waste before allowing its discharge to the POTW to verify compliance with the provisions of this chapter and any applicable federal or state laws.
- D. The city shall have the right to refuse the discharge of any trucked or hauled waste to the POTW if it determines within its absolute discretion that the discharge of such trucked or hauled waste would not comply with the provisions of this chapter and any applicable federal or state laws.
- E. The discharge of any trucked or hauled waste containing hazardous wastes, as defined under applicable federal and state laws and regulations, to the POTW shall be strictly prohibited.
- F. Failure to comply with the terms of this section shall subject the person, firm or corporation responsible for the failure to the penalties specified in Part 8 of this chapter. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.430 Regulations.**

The wastewater manager will have the authority to promulgate written regulations consistent with this chapter. (Ord. 2003-74 § 1 (part), 2003).

#### **7.65.440 Severability.**

The provisions of this chapter are severable, and if any provision of this chapter, or the application of any provision of this chapter to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this chapter shall not be affected thereby. (Ord. 2003-74 § 1 (part), 2003).

**The Yakima Municipal Code is current through Ordinance 2019-006, passed March 19, 2019.**

Disclaimer: The City Clerk's Office has the official version of the Yakima Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.



# **SEWER USE ORDINANCE**

**CITY OF UNION GAP**

## Chapter 12.12 - SEWER USE AND PRETREATMENT REGULATIONS<sup>[2]</sup>

Footnotes:

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Prior ordinance history: Ords. 2242 and 2540.

### Article I. - General Provisions

#### 12.12.010 - Purpose and policy.

This chapter sets forth uniform requirements for dischargers into the city of Union Gap's (City) wastewater collection and publicly owned treatment works (POTW), and enables the city to protect public health in conformity with all applicable local, state and federal laws relating thereto, including the Clean Water Act (33 U.S.C. 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). This chapter shall apply to all users of the POTW.

The objectives of this chapter are the following:

- (a) To promote the health, safety and welfare of those persons within the city's sewer service area;
- (b) To ensure proper and safe connections to the POTW;
- (c) To prevent the introduction of pollutants into the POTW that could interfere with the normal operation of the POTW;
- (d) To prevent the introduction of pollutants into the POTW that would not receive adequate treatment in the POTW and that would pass through the POTW into receiving waters or the atmosphere or otherwise be incompatible with the POTW;
- (e) To ensure that the quality of biosolids from the POTW is maintained at a level, which allows its use and disposal in compliance with applicable statutes and regulations;
- (f) To protect POTW personnel who may be affected by wastewater and biosolids in the course of their employment and to protect the general public;
- (g) To improve the opportunity to recycle and reclaim wastewater and biosolids from the POTW; and
- (h) To enable the city to comply with the Regional WWTP NPDES permit conditions, biosolids utilization and beneficial reuse requirements and any other federal or state laws to which the POTW is subject.

This chapter provides for the regulation of discharges into the city's wastewater system through the enforcement of administrative regulations. This chapter authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires discharger reporting. This chapter does not provide for the recovery of operations, maintenance or replacement costs of the POTW or the costs associated with the construction of collection and treatment systems used by industrial dischargers, in proportion to their use of the POTW, which are the subject of separate enactments.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.015 - Administration.

Except as otherwise provided, the public works director shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the public works director may be delegated by the public works director to other city personnel.

(Ord. 2565 § 1 (part), 2008)

## Article II. - Definitions

### 12.12.020 - Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

"Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act (33 U.S.C. 1251 et seq.), in its current form or as it may be amended.

"Applicable pretreatment standards" for any specified pollutant means the city's specific limitations on discharge, the state standards, or the national categorical pretreatment standards (when effective), whichever standard is most stringent in a given situation.

"Authorized representative" means:

- (1) If the industrial discharger is a corporation, the president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or the manager of one or more manufacturing, production, or operation facilities provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- (2) If the industrial discharger is a partnership or sole proprietorship, a general partner or proprietor, respectively;
- (3) If the industrial discharger is a federal, state or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;
- (4) The individuals described in subsections (1) through (3) of this definition may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

"Backwater valve" means a device installed in a drainage system to prevent reverse flow.

"Best management practices" means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b) and treatment requirements, operating procedures and practices to control facility site runoff, spills or leaks, sludge or waste disposal or drainage from raw materials storage.

"Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at twenty (20) degrees Centigrade, expressed in milligrams per liter.

"Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharged, wastewater from inside the walls of the building and conveys it to the building sewer connection, beginning five feet outside the exterior face of the building wall.

"Building sewer" means the pipe that connects the city's sewer line to the building drain.

"Bypass" means the intentional diversion of wastestreams from any portion of an industrial discharger's treatment facility.

"Categorical pretreatment standards or categorical standards" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of industrial dischargers and which appear in 40 CFR Chapter I, subchapter N, Parts 405 through 471.

"CFR" means the Code of Federal Regulations.

"City" means the city of Union Gap or its authorized deputy, agent, or representative.

"Color" means the optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred (100) percent transmittance is equivalent to zero optical density.

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

"Discharger — industrial discharger or user" means any nondomestic user who discharges a liquid-carried effluent, or wastewater, into a POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, intercepting ditches, or any constructed devices and appliances appurtenant thereto. The term "industrial discharger" specifically includes commercial businesses that discharge wastewater other than domestic wastewater.

"Domestic discharger or user" means any single-family or multifamily residential customer or commercial business customer discharging domestic wastewater only.

"Domestic wastewater" means water from any domestic discharger or user carrying human waste, kitchen, bath and laundry waste, and housekeeping materials in volumes and/or concentrations normally associated with residential discharges, together with such groundwater infiltration or surface waters as may be present.

"Ecology" means the Washington State Department of Ecology.

"Environmental Protection Agency or EPA" means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of said agency.

"Existing discharger" or "existing user" means any discharger which was discharging wastewater prior to the effective date of this chapter.

"Existing source" means any source of discharge of wastewater, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

"Floatable oil" means fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility.

"Food processing" means the preparation of fruits or vegetables for human or animal consumption, including, but not limited to, the preparation of fruits or vegetables for wholesale or retail sale by washing and/or other processes.

"Food processing wastewater" means wastewater that contains wastes generated by food processing and that is discharged into the food processing wastewater system. "Food processing wastewater" does not include any domestic or industrial wastewater except as set forth above.

"Food processing wastewater sewer" means the system for the collection and treatment of food processing wastewater. This definition includes any devices or systems used in the collection, storage, treatment, recycling or reclamation of food processing wastewater and any conveyances that convey food processing wastewater to the food processing wastewater treatment plant.

"Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of foods.

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

"Indirect discharge" means the discharge or the introduction of nondomestic pollutants from a source regulated under Section 307(b), (c), or (d) of the Act, into a POTW. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.

"Industrial discharger" means "discharger — industrial discharger or user," as defined above.

"Industrial sewer" means a drain or sewer which carries industrial wastewater only, as distinct from "process sewer," "sanitary sewer" or "storm sewer."

"Industrial wastewater" means water or liquid-carried waste from any industrial, manufacturing, trade, or business which includes some combination of process wastewater, domestic wastewater, noncontact cooling water, contaminated stormwater, or contaminated leachates, as distinct from "domestic wastewater" or "process wastewater" or "noncontact cooling water."

"Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the normal operation of the city sewer system, or which causes a violation of any requirement of the Regional Wastewater Treatment Plant's (WWTP) National Pollution Discharge Elimination System (NPDES) permit including an increase in the magnitude or duration of a violation or any increase in the cost of treatment of sewage or in the cost of sewage biosolids utilization or beneficial reuse in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations); Section 405 of the Clean Water Act (33 U.S.C. 1345 et seq.); the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901 et seq.); any state regulations contained in any state biosolids management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act (42 U.S.C. 7401 et seq.); the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601 et seq.); and the Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1401 et seq.).

"Lower explosive limit" or "LEL" means the lowest concentration of a gas-in-air mixture at which the gas can ignite.

"May" is permissive.

"Medical waste" means isolation wastes, infectious agents, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

"Mg/L" means milligrams per liter.

"Minor industrial discharger or user (MIU)" means a nondomestic discharger that meets one or more of the following criteria:

- (1) Discharges wastewater which meets, at least, one of the following criteria:
  - (A) Daily average process wastewater flows exceed five thousand (5,000) gallons per day, but not more than twenty-five thousand (25,000) gallons per day (excluding domestic wastewater, and non-contact cooling water); or
  - (B) Maximum daily discharge volume which exceeds one percent of the average dry weather hydraulic or organic capacity of the POTW; or
- (2) Is otherwise deemed by the city to be categorized as an MIU.

"Natural outlet" means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

"New discharger" or "new user" means a user that is not regulated under federal categorical pretreatment standards but that applies to the city for a new building permit or occupies an existing building and plans to commence discharge of wastewater (other than domestic wastewater) to the city's collection system after the effective date of this chapter. Any person that buys an existing facility that is

discharging non-domestic wastewater will be considered an "existing discharger" or "existing user" if no significant changes are made in the manufacturing operation.

"New source" means any building, structure, facility, or installation from which there is or may be a discharge of wastewater, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

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

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

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

- (1) Begun, or caused to begin as part of a continuous onsite construction program:
  - (A) Any placement, assembly, or installation of facilities or equipment; or
  - (B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

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

"Nondomestic discharger or user" means any discharger other than a domestic discharger (i.e., an industrial discharger or user).

"Nonresidential domestic discharger or user" means any domestic dischargers other than single-family or multifamily residential discharger or users.

"North American Industry Classification System (NAICS)" means a system used by business and government to classify and measure economic activity in Canada, Mexico, and the United States. It is in the process of replacing the older standard industrial classification (SIC) code system.

"O&M" means operation and maintenance.

"Other wastes" means decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals, and all other substances except sewage and industrial wastewater.

"Pass through" means a discharge or pollutant which enters and subsequently exits the POTW into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or

discharges from other sources, is a cause of a violation of any requirement of the Regional WWTP NPDES permit (including an increase in the magnitude or duration of a violation).

"Permit," unless the context clearly dictates otherwise, means a "wastewater discharge permit" as defined in this chapter.

"Permittee" means a person, discharger or user issued a wastewater discharge permit.

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

"pH" means the logarithm of the reciprocal of the mass of hydrogen ions in grams per liter of solution. Neutral water, for example, has a pH value of seven and a hydrogen-ion concentration of  $10^{-7}$ . pH is a measure of a substance's corrosivity (acidity or alkalinity).

"Pollutant" means any substance discharged into a POTW or its collection system which, if discharged directly, would alter the chemical, physical, thermal, biological, or radiological integrity of the water of the state, or would or be likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to any legitimate beneficial use, or to any animal life, either terrestrial or aquatic. Pollutants include, but are not limited to, the following: dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage biosolids, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, and odor).

"POTW" means publicly owned treatment works (sometimes termed "wastewater facilities" or "wastewater treatment system" or "wastewater treatment works" or "water pollution control facility"). POTW designates a "treatment works" as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the state or municipality. This 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 wastewater to a wastewater treatment plant. The term also means the municipal entity having responsibility for the operation and maintenance of the treatment works.

"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless specifically allowed by an applicable pretreatment standard.

"Pretreatment requirement" means any substantive or procedural requirement related to pretreatment other than a pretreatment standard.

"Pretreatment standard" means discharge standards, categorical pretreatment standards, and local limits.

"Private wastewater disposal system" means any system of piping, treatment devices, or other facilities, including a septic tank, that convey, store, treat, or dispose of sewage on the property where it originates or on adjacent or nearby property under the control of the user where the system is not connected to a public sewer.

"Process sewer" means a drain or sewer which carries process wastewater only, as distinct from "industrial sewer," "sanitary sewer" and "storm sewer."

"Process wastewater" means water or liquid-carried waste discharged from one or more industrial, manufacturing, trade, or business practices or from the development, recovery, or processing of natural resources. Process wastewater does not include domestic waste or noncontact cooling water. Process wastewater may refer to one process discharge or several commingled process discharges.

"Prohibitive discharge standard" means any regulation developed under the authority of Section 307(b) and (c) of the Act (33 U.S.C. 1317(b)(c)), the General Pretreatment Regulations (40 CFR Part 403), the state or by the city which prohibits the discharge of certain types or characteristics of wastewater. These prohibitions can be "general" or "specific" and are contained in Section 12.12.060 of this chapter.

"Public sewer" means a sewer constructed for conveyance of liquid wastes which is controlled by a public authority.

"Public works department" means such division of the city of Union Gap and includes its public works director and authorized representatives, and includes the term "Public works director" as used in this chapter.

"Public works director" means the public works director of the city, or the director's authorized representative.

"Residential discharger or user" means a single-family or multi-family residential customer that only discharges domestic wastewater to the POTW.

"Sanitary sewer" means a drain or sewer which carries sewage, as distinct from "industrial sewer," "process sewer" and "storm sewer." Sanitary sewers may carry "industrial wastewater" or "process wastewater" commingled with "domestic wastewater."

"Septage" or "septic tank waste" means, but is not limited to, septic tank pumpings, portable toilet pumpings, sump pumpings, camper and trailer pumpings.

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

"Sewage" means water-carried human wastes or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm, or other waters as may be present. (The preferred term is "wastewater.")

"Sewage works" shall have the same meaning as POTW.

"Sewer" means any pipe, conduit, ditch, or other device used to collect and transport sewage.

"Shall" is mandatory.

"Significant industrial discharger or user (SIU)" means a nondomestic user of the POTW who:

- (1) Is subject to categorical pretreatment standards; or
- (2) Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding, domestic wastewater and noncontact cooling water); or
- (3) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
- (4) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

Upon a finding that a nondomestic user meeting the criteria of subsection (2), (3) or (4) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a nondomestic user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

"Slugload" means any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a single extraordinary discharge episode of such volume or strength as to cause a violation of this chapter, including, but not limited to, the following: interference to the POTW, or flow rate exceeding the permitted peak flow, or ten (10) percent of the capacity of the available trunk sewer, whichever is greater.

"Standard industrial classification (SIC) Code" means a classification pursuant to the "Standard Industrial Classification Manual" issued by the U.S. Office of Management and Budget.

"State" means the state of Washington.

"Storm sewer" (sometimes termed "storm drain") means a drain or sewer which carries storm and surface waters and drainage, but from which "domestic wastewater," "industrial wastewater" and "process wastewater" are intended to be excluded.

"Stormwater" means any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.

"Suspended solids or total suspended solids (TSS)" means total suspended solids or matter that either floats on the surface of, or is in suspension in water, sewage, or other liquids, and which is removable by laboratory filtering.

"Temporary discharge" means a discharge on a one-time or temporary basis into the city's POTW of no more than one year in duration. Significant Industrial Users are ineligible for authorization for a temporary discharge.

"Toxic pollutants" means those substances listed in the federal priority pollutant list and any other pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under Section 307 (33 U.S.C. 1317) of the Clean Water Act.

"Treatment plant effluent" means any discharge of water from the POTW into waters of the state.

"Unpolluted water" is water of quality equal to or better than the effluent limitations in effect or water that would not cause violation of the receiving water quality standards and would not be benefited by discharge to the public sewer and POTW.

"Upset" means an exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in Sections 12.12.060 and 12.12.070 hereof, or with the terms of pretreatment standards contained in an applicable wastewater discharge permit or authorization, 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 preventive maintenance, or careless or improper operation thereof.

"WAC" means the Washington Administrative Code.

"Wastewater" means water or liquid-carried industrial waste, process waste, or domestic waste or any modification thereof, or any other water-carried waste, including that which may be combined with any groundwater, surface water, or stormwater, that is or may be discharged to the POTW or a private wastewater disposal system. For purposes of this chapter, "wastewater" shall also include "food processing wastewater."

"Wastewater discharge permit" means an authorization or equivalent control document issued by the Washington State Department of Ecology. The permit shall contain appropriate pretreatment standards and requirements as set forth in this chapter.

"Wastewater treatment operator" means an individual who performs routine pretreatment duties, or supervision of such duties on-site at a discharger's pretreatment facilities which affect effluent quality, and who: (1) holds, at least, a valid state of Washington Wastewater Treatment Operator 1 certification, or (2) who has successfully completed a course of study which, in the opinion of the public works director, contains all subject matter reasonably related to the duties of a wastewater pretreatment operator.

"Wastewater treatment plant" or "treatment plant" means that portion of the POTW designated to provide treatment of wastewater.

"Watercourse" means a natural or artificial channel for the passage of water either continuously or intermittently.

"WWTP NPDES" means the Regional Wastewater Treatment Plant's National Pollutant Discharge Elimination System permit program as administered by the EPA or State of Washington Department of Ecology (Ecology).

(Ord. 2565 § 1 (part), 2008)

Article III. - Public Sewer Use Requirements

12.12.030 - Use of public sewers required.

- (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 any human or animal excrement, garbage, or other objectionable waste.
- (b) It shall be unlawful to discharge into any public storm drain or ditch any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.
- (c) Except as provided in this chapter, 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 wastewater.
- (d) The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, 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 sewer of the city, are required at the owners' expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within ninety (90) days after date of official notice to do so, provided that said public sewer is within two hundred (200) feet of the property line.

(Ord. 2565 § 1 (part), 2008)

12.12.040 - Private wastewater disposal.

Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit from the Yakima Health District as set forth in Article IX, as now or as hereafter may be amended, of said district's "Rules and Regulations Providing for the Regulation of On-site Sewage Disposal Systems."

(Ord. 2565 § 1 (part), 2008)

12.12.050 - Building sewers and connections.

- (a) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the public works director.
- (b) There shall be two classes of building sewer permits: (1) residential and nonresidential domestic service, and (2) service to nondomestic dischargers producing industrial wastewater. In either case, the owner or his/her agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the public works director. Permit and inspection fees shall be paid as required by applicable provisions of this code.
- (c) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify and hold harmless the city from any loss or damage that may directly, or indirectly, be occasioned by the installation of the building sewer. The owner shall utilize only those construction contractors, which are adequately licensed and bonded in accordance with the city's requirements at the time of connection to the sewer.

- (d) A separate and independent building sewer shall be provided for every building, and only on each buildings' separate and independent lot, except under the following circumstances:
- (1) Where one building stands in the rear of another building on an interior lot and no private or public sewer is available or can be constructed to the rear building through an adjoining court, yard, or driveway the building drain from the front building may be extended to the rear building and the whole considered as one building sewer; or
  - (2) Where other circumstances, established to the satisfaction of the public works director, indicate the need for a single sewer connection between separate and independent lots and there is a legally valid easement over the subservient lot.

The city does not and will not assume any obligation or responsibility for damage caused by or resulting from any single or multiple connection.

- (e) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the public works director, to be in good repair, sized for the number of fixtures per the plumbing code most recently adopted by the city, to be suitable for this purpose, and to meet all requirements of this chapter.
- (f) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the edition of the plumbing code most recently adopted by the city.
- (g) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by any approved means described in the edition of the plumbing code most recently adopted by the city and found acceptable by the public works director, and discharged to the building sewer.
- (h) No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff, storm water, or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sewer, or maintain such a connection.
- (i) The connection of the building sewer into the public sewer shall conform to the requirements of the editions of the building code and plumbing code most recently adopted by the city. All such connections shall be made gastight and watertight and verified by proper testing. The public works director must approve any deviation from the prescribed procedures and materials before installation.
- (j) The applicant for the building sewer permit shall notify the public works director when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the public works director or his/her representative.
- (k) All excavations for building sewer installation shall be adequately guarded with barricades and lights to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.
- (l) A properly functioning backwater valve shall be required in any building containing a basement, except in those situations which would not require a backwater valve as described in the edition of the building code most recently adopted by the city. The permit to install a backwater valve can be obtained from the public works director or his/her representative. The city shall not be liable for damage due to wastewater backing up into a building where a properly functioning backwater valve has not been installed. The city also shall not be liable for damage due to wastewater backing up into a building where a backwater valve has been installed but has not been properly maintained or repaired.

(Ord. 2565 § 1 (part), 2008)

#### Article IV. - Pretreatment Standards and Requirements

12.12.060 - Pretreatment standards and requirements.

- A. No person shall discharge or cause to be discharged to the POTW, directly or indirectly, any unpolluted waters such as stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, or noncontact cooling water, and unpolluted industrial wastewater to any sewer or natural outlet, unless approved by the Public Works Director and other regulatory agencies whose approval is required by law.
- B. No person shall discharge or cause to be discharged to the POTW, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. Furthermore, no discharger shall discharge or cause to be discharged to the POTW, directly or indirectly, any of the following described substances unless prior written approval has been obtained from the public works director:
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 to be injurious in any other way to the operation of the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit or sixty (60) degrees Centigrade using the test methods specified in 40 CFR 261.21. At no time shall two successive readings on a combustible gas meter, at the point of discharge into the system (or at any point in the system), be over five percent, nor any single reading over ten (10) percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, fuel oil, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and any other substances which are a fire hazard or hazard to the POTW.
  2. Solid or viscous substances in quantities or of such size that they will or may cause reduction of the effective cross-sectional area of a sewer, obstruction to the flow in a sewer, or other interference with the operation of the POTW. In no case may solids greater than one-fourth ( $\frac{1}{4}$ ) inch in any dimension be discharged to the POTW.
  3. Any wastewater having a pH less than 5.5 or higher than 10.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the system.
  4. Any wastewater having a BOD of more than three hundred (300) mg/L.
  5. Any wastewater having a suspended solids content of more than three hundred (300) mg/L.
  6. Any wastewater having a chlorine demand of more than twenty (20) mg/L.
  7. Any wastewater having an animal/vegetable (polar) based floatable oil, fat waste, oil, or grease (whether or not emulsified), hexane or ether-soluble matter content in excess of one hundred (100) mg/L; or a mineral/petroleum (non-polar) based oil or grease (whether or not emulsified), hexane or ether-soluble matter content in excess of one hundred (100) mg/L; or any petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through; or any substance which may solidify or become discernibly viscous at temperatures above zero degrees Centigrade (0 degree C)(32 degrees F).
  8. Any wastewater containing pollutants in sufficient quantity or concentration, either singly or by interaction, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or to exceed the limitation set forth in categorical pretreatment standards, or state or local standards.
  9. Any pollutants which result in the presence of toxic, noxious or malodorous liquids, gases, vapors, fumes, or solids within the POTW in a quantity that which either singly or by interaction are capable of creating a public nuisance or hazard to life or causing acute worker health and safety problems, or are sufficient to prevent entry into the sewers for their maintenance and repair.
  10. Any substance which may cause the POTW's effluent or treatment residues, biosolids, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.

In no case shall a substance be discharged to the POTW that, either alone or in combination with other discharges, will cause the POTW to be in noncompliance with biosolids use or disposal criteria, guidelines or regulations developed under section 405 of the Act; or with any criteria, guidelines, or regulations affecting biosolids use or disposal developed pursuant to the Solid Waste Disposal Act, 42 U.S.C. 6901 et seq., as now or as it may be amended, the Clean Air Act, 42 U.S.C. 7401 et seq., as now or as it may be amended, the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 et seq., as now or as it may be amended, or similar state statutes or regulations applicable to the biosolids management method being used.

11. Any substance which will cause the POTW to violate the Regional WWTP NPDES and/or other disposal system permits.
  12. 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 plant's effluent thereby violating the regional WWTP NPDES permit. Color, alone or in combination with turbidity, shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten (10) percent from the seasonably established norm for aquatic life.
  13. Any slugload.
  14. Any sludges, screenings, or other residues from the pretreatment of industrial wastewater discharges.
  15. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as exceed limits established by the city in compliance with applicable state or federal regulations.
  16. Any wastewater which causes a hazard to human life or creates a public nuisance.
  17. Any medical wastes.
  18. Any wastewater causing the treatment plant's effluent to fail a toxicity test.
  19. Any wastes containing detergents, surface active agents, or other substances in such concentrations that they may cause excessive foaming in the POTW.
  20. Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., as now or as it may be amended.
- C. No discharger shall discharge or cause to be discharged to the POTW, directly or indirectly, any of the following described substances unless discharged pursuant to a valid wastewater discharge permit:
1. Any wastewater with a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference; but in no case, wastewater with a temperature at the introduction into the POTW which exceeds forty degrees Centigrade (40 degrees C) (104 degrees F).
  2. Any trucked or hauled pollutants, except pursuant to section 12.12.420.
  3. Any dangerous wastes as defined in chapter 173-303 of the Washington Administrative Code (WAC), as now or as it may be amended.
  4. Flows which have the potential to adversely affect the hydraulic loading of the POTW, including the following categories:
    - a. Noncontact cooling water;
    - b. Stormwater and other direct inflow sources; and
    - c. Nonpolluted water or water which does not require significant treatment.
- D. Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial discharger's pretreatment facility prior to discharging to the POTW.

- E. The general and specific prohibitions provided by this section apply to all dischargers to the POTW whether or not the discharger is subject to categorical pretreatment standards or requirements.

(Ord. 2565 § 1 (part), 2008; Ord. No. 2717, § 1, 4-11-11)

12.12.070 - Limitations on wastewater strength.

- A. National categorical pretreatment standards as adopted and hereafter amended or modified by the U.S. Environmental Protection Agency (EPA) pursuant to the Act shall be met by all dischargers of the regulated industrial categories. The national categorical standards found at 40 CFR chapter I, subchapter N, parts 405 through 471 are hereby incorporated.
- B. State requirements and limitations on discharges to the POTW shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this chapter or any other applicable ordinance.
- C. The city may, from time to time, amend this chapter to provide for more stringent limitations or requirements on discharges to the POTW if such amendments are deemed necessary to comply with the objectives set forth in section 12.12.010 of this chapter, or are otherwise in the public interest.
- D. No discharger shall dilute its waste stream with potable or process water in any way, nor mix separate waste streams 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 chapter.
- E. No discharger shall discharge wastewater containing concentrations (and/or mass limitations) that exceed any of the following local discharge limits unless prior written approval has been obtained from the public works department:

Pollutant <sup>(1)</sup>	Daily Maximum Concentration (mg/L)
Arsenic (As)	0.48
Cadmium (Cd)	0.049
Chloroform	0.67
Chromium (Cr)	5.0
Chromium (VI)	0.43
Copper (Cu)	0.30
Lead (Pb)	0.19
Mercury (Hg)	0.002
Molybdenum (Mo)	1.14

Nickel (Ni)	2.0
Selenium (Se)	0.419
Silver (Ag)	0.06
Sulfide (liquid phase)	0.5
Zinc (Zn)	4.2
beta-BHC	0.01516
Endosulfan	0.06964
Endrin	0.00383
alpha-Chlordane	0.00716
gamma-Chlordane	0.00367
Chlorpyrifos	0.01298
Lindane	0.13324
Benzene	0.05 <sup>(3)</sup>
BTEX <sup>(2)</sup>	0.75 <sup>(3)</sup>

(1) All pollutants are analyzed and reported as total mg/L.

(2) BTEX is the sum of the measured concentrations of Benzene, Toluene, Ethylbenzene and Xylene.

(3) These pollutants are based upon treatment technology (air stripping/carbon capture) and are developed for discharges from groundwater cleanup or remediation activities or other effluents containing Benzene and/or BTEX and requiring the installation of treatment.

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. An industrial user, through enforcement action and/or permit compliance schedule, may be required to install treatment or otherwise reduce or halt a discharge of a pollutant to maintain compliance with pretreatment standards and requirements and prevent interference with the operation of the POTW, pass through and adverse

effects on the quality of the receiving waters, contamination of municipal biosolids, health and safety hazards to workers in the POTW, or violations of applicable federal or state regulations.

The city may impose mass limitations on discharges in cases where necessary to be consistent with federal categorical pretreatment standards. Where a discharger is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply.

- F. The city may establish more stringent pollutant limits, mass-based limits, additional site-specific pollutant limits. Best management practices, or additional pretreatment requirements when, in the judgment of the city such limitations are necessary to implement the provisions of this chapter. All known, available, and reasonable methods of pretreatment, in accordance with RCW 90.48.010 and WAC 173-216-020(1), shall be used by a discharger to bring into compliance a wastewater discharge that does not comply with standards set forth in this chapter.
- G. The city reserves the right to enter into special agreements with industrial dischargers setting out special terms under which they may discharge wastewater to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial discharger may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance in accordance with 40 CFR 403.13 from the categorical pretreatment standard from EPA. Such a request will be approved only if the industrial discharger can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. An industrial discharger requesting a fundamentally different factor variance must comply with the procedural and substantive provision in 40 CFR 403.13.

(Ord. 2565 § 1 (part), 2008; Ord. No. 2717, § 2, 4-11-11)

#### 12.12.080 - Slugload or accidental discharges.

- (a) Each discharger shall provide protection from a slugload or accidental discharge of prohibited or regulated materials or substances established by this chapter. Where the city deems it necessary, a discharger shall provide and maintain, at the discharger's own cost and expense, facilities and operating procedures to prevent a slugload or accidental discharge of prohibited materials. When requested to do so, the discharger shall submit to the public works director for review a "slugload control/spill prevention, control and countermeasure plan" (SC/SPCC plan) showing facilities and operating procedures to provide this protection. The public works director shall evaluate, at least once every two years and within one year of a user's initial designation as a significant industrial discharger, whether each significant industrial user needs a SC/SPCC plan. No SC plan or SPCC plan shall be effective to satisfy the requirements of this chapter and section unless it has been reviewed and certified by a professional engineer registered in the state of Washington. The SC plan/SPCC plan shall contain at a minimum the following elements:
  - (1) Description of discharge practices for batch and continuous processes, including non-routine and routine batch discharges;
  - (2) Description of stored hazardous substances, including quantity maintained for each listed material and a map showing their location;
  - (3) Procedures for immediately notifying the city, the Regional WWTP and any other authorities of any accidental or slugload discharges, with procedures for follow-up written notification within five days; and
  - (4) Procedures to prevent adverse impact from any accidental or slugload discharge, including, but not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

Where applicable, the SC/SPCC plan shall also conform to guidelines found in 40 CFR, Part 112 and to Ecology's "Guidelines to Prevent, Control, and Contain Spills from the Bulk Storage of Petroleum Products" (WDOE 83-8), as now or as they may be amended. Each discharger shall complete its SC/SPCC plan and submit it to the public works director within one hundred twenty (120) days of being notified by the public works director to do so. The public works director will review the SC/SPCC plan before construction of any prevention facility. No discharger who discharges to the POTW after the aforesaid date shall be permitted to introduce pollutants into the system until such SC/SPCC plan has been reviewed by the public works director. Review of such plan by the public works director shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this chapter.

- (b) A discharger who has prepared a SC/SPCC plan shall review and evaluate such plan at least every two years from the date of submittal. As a result of this review and evaluation, the discharger shall amend the SC/SPCC plan within six months of the review to include more effective prevention and control technology if: (1) such technology will significantly reduce the likelihood of a spill event from the facility, and (2) if such technology has been field-proven at the time of the review. The plan shall be maintained on the plant site and readily available to facility personnel. No amendment shall be effective to satisfy the requirements of this chapter and section unless it has been reviewed and certified by a professional engineer registered in the state of Washington.
- (c) Dischargers shall verbally notify the public works director immediately upon the occurrence of a slugload or accidental discharge of substances prohibited by this chapter and take immediate action to correct the situation. Within five days after the occurrence of the slugload or accidental discharge, the discharger shall follow-up with a written notification to the public works department. The notifications shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions taken or to be taken. Any discharger who discharges a slugload of prohibited materials shall be liable for any expense, loss, or damage to the POTW, in addition to any other liabilities established by this chapter or other city ordinance and the amount of any fines, penalties, damages or costs assessed against the city by the Regional WWTP, any state or federal agency, court of law or private individual, as a result of the slugload or accidental discharge.
- (d) Signs shall be permanently posted in conspicuous places on discharger's premises, advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.
- (e) Significant industrial users shall verbally notify the public works director immediately of any changes in its facility or operating procedures that will affect its potential for slug discharges. Within five days of its verbal notification, the discharger shall follow-up with a written notification to the city. Changes that will effect a facility's potential for slug discharges include, but are not limited to, significant changes to the hazardous substances stored at the facility and changes to the discharge practices associated with the facility's operating procedures.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.090 - Pretreatment facilities.

- (a) Dischargers shall provide all known, available, and reasonable methods of prevention, control, and pretreatment as required to comply with this chapter and state and federal regulations, and shall achieve compliance with all applicable pretreatment standards within the time limitations as specified by appropriate statutes, regulations, chapters, and ordinances. Where the city deems it necessary, a discharger shall provide, properly operate, and maintain, at the discharger's own cost and expense, facilities required to pretreat wastewater to a level acceptable to the city. When requested to do so, the discharger shall submit detailed plans showing the pretreatment facilities to the public works director for review and acceptance before construction of the facility. The review of such plans by the public works director shall in no way relieve the discharger from the responsibility of modifying its facility as necessary to produce an effluent acceptable to the public works director under the

provisions of this chapter. The discharger shall obtain all necessary construction-operating permits from the public works director. Prior to completion of the pretreatment facility, the discharger shall furnish its plan of operations and maintenance procedures for the public works director to review. Such pretreatment facilities shall be under the control and direction of a qualified wastewater treatment operator.

- (b) Any subsequent proposal for significant changes in the pretreatment facilities or method of operation shall be reported to and be accepted by the public works director prior to the discharger's initiation of the changes.
- (c) Pretreatment facilities shall comply with the applicable requirements of Chapter 173-240 and Section 173.216.110 of the Washington Administrative Code (WAC) and RCW 90.48.010, as now or as they may be amended, and with the accepted plan of operations and maintenance procedures. The city will have the opportunity to audit periodically the compliance of the discharger with all applicable requirements, and to require changes in the discharger's plan of operations and maintenance procedures in order to ensure the discharger's continued compliance with these requirements. The discharger shall then comply with the modified plan of operations and maintenance procedures, together with all applicable requirements as may be specified by this chapter and federal and state regulations.
- (d) All wastes discharged into the food processing sewer shall be adequately screened by a twenty (20) mesh or finer screen before discharge. An additional screen, with openings not to exceed one-fourth inch square, shall be installed in a fixed position so that all material must pass through said screen immediately before entrance into the sewer.
- (e) Grease, oil and sand interceptors shall be provided when, in the opinion of the public works director, they are necessary for the proper handling of liquid wastes containing floatable or emulsified grease, fats, or oil in amounts exceeding those specified in Section 12.12.060(b), Article VII of this chapter, or any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. Such interceptors shall be provided within six months of receipt of a written request from the public works director to do so. Dischargers who operate restaurants, cafes, lunch counters, cafeterias, bars, or clubs; or hotel, hospital, sanitarium, factory or school kitchens; or other establishments that serve or prepare food where grease may be introduced to the sewer system shall have grease interceptors (grease traps) to prevent the discharge of fat waste, oil, or grease. Take-out food establishments or other establishments that prepare food, but do not cook in oil or grease, and who serve food only in disposable containers, may be exempted from this requirement, provided their discharges do not violate Section 12.12.060 (the general discharge prohibitions) of this chapter. The grease interceptors shall be installed in the waste line leading from sinks, drains, or other fixtures where grease may be discharged. All new interceptors requested by the public works director shall be of a type and capacity, conforming to and described in the edition of the Uniform Building Code most recently adopted by the city, and approved by the public works director, and shall be located as to be readily accessible for cleaning and inspection. Dischargers must maintain these interceptors in a manner that will always prevent fat waste, oil, grease, flammable wastes, sand, or other harmful ingredients from being carried into the sewer system. The owner shall be responsible for the proper removal and disposal by appropriate means of the captured material, and shall maintain records of the dates and means of disposal which are subject to review by the public works director. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by waste disposal firms currently licensed by the Yakima Health District. The collected materials removed from such interceptors shall not be disposed of in sanitary, industrial or storm sewers. Failure to provide or maintain such grease, oil and sand traps in accordance with the provisions of this section shall automatically result in an administrative fine of two hundred fifty dollars (\$250.00) under Section 12.12.240 of this chapter. Additional penalties for repeated violations may be imposed by the city as provided for in Articles VIII and IX of this chapter.

(Ord. 2565 § 1 (part), 2008)

## Article V. - Fees

### 12.12.110 - Charges and fees.

Rates, charges and fees relating to the pretreatment program established by this chapter shall be as set forth in Sections 12.12.240, 12.12.250 in this chapter and Chapter 12.08.

(Ord. 2565 § 1 (part), 2008)

## Article VI. - Administration, Reporting, and Monitoring

### 12.12.120 - Industrial dischargers.

- (a) It shall be unlawful for any industrial discharger to discharge sewage, industrial wastewater, or any other wastes into the city's POTW except as authorized by the city and by Chapter 173-216 WAC, as now, or as it may be amended.
- (b) The city shall have the right to deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial dischargers where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate the Regional WWTP NPDES permit. New sources and new dischargers shall not be allowed to discharge without first complying with the applicable pretreatment standards and requirements. New sources and new dischargers subject to the permitting requirements of this chapter shall comply with those requirements.
- (c) Compliance by existing sources with categorical pretreatment standards shall be within three years of the date the categorical pretreatment standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR Chapter I, subchapter N. Direct dischargers with NPDES permits modified or reissued to provide a variance pursuant to Section 301(i)(2) of the Act shall be required to meet compliance dates set in any applicable categorical pretreatment standard. Existing sources which become industrial dischargers subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing industrial dischargers except where such sources meet the definition of a "new source" within the meaning of this chapter. New sources and new significant industrial dischargers shall install and have in operating condition, and shall start-up all pollution control equipment required to meet applicable pretreatment standard before beginning to discharge. Within the shortest feasible time (not to exceed ninety (90) days after the beginning of the discharge), new sources and new significant industrial dischargers must meet all applicable pretreatment standards.
- (d) The public works director shall establish a final compliance deadline date for any existing user not covered by an applicable categorical pretreatment standard or for any categorical user when the local limits for said user are more restrictive than the applicable federal categorical pretreatment standard. Any existing industrial discharger that must comply with a more stringent local limit which is in noncompliance with any local limits shall be provided with a compliance schedule placed in a wastewater discharge permit to insure compliance within the shortest time feasible.

(Ord. 2565 § 1 (part), 2008)

### 12.12.130 - Industrial discharger identification and data disclosure.

- (a) The public works director shall develop and implement procedures to identify all possible industrial dischargers and the character and volume of the discharge from those dischargers. The public works director shall develop, maintain, and report a list of industrial dischargers as required by 40 CFR 403.8(f)(6). As required by 40 CFR 403.8(f)(2)(iii), the public works director shall develop and

implement procedures to notify all industrial users of applicable pretreatment standards and requirements.

- (b) When requested by the city to do so, industrial dischargers shall complete, and file with the public works department, a preliminary or follow up industrial waste survey (IWS) signed by an authorized representative of the industrial discharger and in the form prescribed by the public works department. This industrial waste survey shall be filed within thirty (30) days of being received by the industrial discharger, unless the industrial discharger requests in writing a thirty (30) day extension from the public works director and the director approves the request in writing. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial discharger and shall be considered a violation of this chapter.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.140 - Reporting requirements for industrial dischargers.

- (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial dischargers subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the public works director a report which contains the information listed below. At least one hundred twenty (120) days prior to commencement of their discharge, new sources, and sources that become significant industrial dischargers subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the public works director a report which contains the information listed below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged. The industrial discharger shall submit the information required by this section including:
  - (1) The name and address of the facility including the name of the operator and owners;
  - (2) A list of any environmental control permits held by or for the facility;
  - (3) A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial discharger. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;
  - (4) Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e);
  - (5) A measurement of pollutants:
    - (A) Identification of the categorical pretreatment standards applicable to each regulated process.
    - (B) Submission of the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the city) of regulated pollutants in the discharge from each regulated process. The industrial discharger shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this paragraph. Instantaneous, daily maximum and long-term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection (h) of this section. In cases where the pretreatment standard requires compliance with best management practices or pollution prevention alternatives, the industrial discharger shall submit documentation as required by that standard to document compliance with the standard.

- (C) Sampling must be performed in accordance with procedures set out in subsection (i) of this section.
  - (D) The city may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
- (6) A statement from the industrial discharger's authorized representative and certified by a professional engineer registered in the state of Washington, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial discharger will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. Where the industrial discharger's categorical pretreatment standard has been modified by a removal allowance (under 40 CFR 403.7), the combined wastestream formula (under 40 CFR 403.6(e)), and/or a fundamentally different factors variance (under 40 CFR 403.13) at the time the industrial discharger submits the report required under subsection (a) of this section, the information required by subsections (a)(6) and (a)(7) of this section shall pertain to the modified limits. If the categorical pretreatment standard is modified by a removal allowance, the combined waste stream formula, and/or a fundamentally different factors variance after the industrial discharger submits the report required under subsection (a) of this section, any necessary amendments to the information requested by subsections (a)(6) and (a)(7) of this section shall be submitted by the industrial discharger to the public works director within sixty (60) days after the modified limit is approved.

The following conditions shall apply to the schedule required by this part:

- (A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the installation and operation of additional pretreatment facilities required for the discharger to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing installation, beginning and conducting routine operation). No progress increment referred to above shall exceed nine months.
  - (B) The industrial discharger shall submit a progress report to the public works director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not the discharger complied with the increment of progress, the reason for any delay, (and, if appropriate) the steps being taken by the industrial discharger to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the public works director.
- (7) All baseline monitoring reports must be signed and certified in accordance with subsection (k) of this section.
- (b) Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards (deadline date for categorical dischargers published in the appropriate categorical pretreatment standards, compliance date for non-categorical dischargers established by the city), or in the case of a new source (new discharger) within thirty (30) days of commencement of the introduction of wastewater into the POTW, any industrial discharger subject to such pretreatment standards and requirements shall submit to the public works director a report containing the information described in subsection (a) of this section, Articles IV through VI. For industrial dischargers which may be subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the industrial discharger's long-term wastewater discharge rate. For all other industrial dischargers subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial

discharger's actual wastewater discharge rate during the appropriate corresponding sampling period. All compliance reports must be signed and certified in accordance with subsection (k) of this section.

- (c) Any significant industrial discharger subject to a pretreatment standard shall, at a frequency determined by the public works director, in its discharge permit, but in no case less than twice per year shall submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All compliance reports must be signed and certified in accordance with subsection (k) of this section.
  - (1) The report shall include a record of the concentrations (and mass if specified by the city) of the limited pollutants that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations, and shall also include any additional information required by this chapter or regulations promulgated thereunder. Production data shall be reported if required by the city. Both daily maximum and average concentration (or mass, where required) shall be reported. In cases where the pretreatment standard requires compliance with best management practices or pollution prevention alternatives, the industrial discharger shall submit documentation as required by that standard to document compliance with the standard. If a discharger sampled more frequently than required by the city, it must submit all results of sampling and analysis of the discharge during the reporting period.
  - (2) Any industrial discharger subject to equivalent mass or concentration limits established by the city in accordance with procedures provided in 40 CFR 403.6(c) shall submit as part of its report a reasonable measure of the discharger's long-term production rate.
  - (3) If the city calculated limits to factor out dilution flows or non-regulated flows, the industrial discharger shall be responsible for providing flows from the regulated process flows, dilution flows and non-regulated flows.
  - (4) The report shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of the normal work cycles and expected pollutant discharges to the POTW.
  - (5) Flows shall be reported on the basis of actual measurement; provided, however, that the city may accept reports of average and maximum flows estimated by verifiable techniques if the city determines that an actual measurement is not feasible.
  - (6) Sampling shall be representative of the industrial discharger's actual discharge and collected in accordance with subsection (i) of this section. Wastewater monitoring and flow management facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial discharger to keep its monitoring facility in good working order shall not be grounds for the industrial discharger to claim that sample results are unrepresentative of its discharge.
  - (7) Where the industrial discharger conducts self-monitoring, the frequency of monitoring shall be prescribed by the city. At a minimum, such dischargers shall sample their discharge twice per year. The samples shall be processed at a laboratory accredited by the state.
- (d) Any industrial discharger subject to this chapter shall report to the public works department, in person or by phone, ninety (90) days prior to any changes in its operations or processes which significantly affect its wastewater constituents or characteristics, or storage of chemicals, and which take place after the last report, permit application or environmental survey. These changes include, but are not limited to, flow, BOD, or TSS increases of twenty (20) percent or greater, the commencement of discharge of any prohibited or limited substance under Section 12.12.060(b) of this chapter, and the addition of any process covered by national categorical pretreatment standards. Formal written notification shall be made to the public works department at least ten (10) days prior to such change.
- (e) Any discharger operating under equivalent mass or concentration limits shall notify the public works director within two business days after the discharger has a reasonable basis to know that the production level will significantly change within the next calendar month. Any discharger not notifying

the public works director of such an anticipated change shall be required to comply with the existing limits.

- (f) All significant industrial dischargers not subject to categorical pretreatment standards and, as deemed necessary by the public works director, any minor industrial dischargers shall provide to the public works director the same reports as set forth in subsection (a) of this section.
- (g) If sampling performed by an industrial discharger indicates a violation, the industrial discharger must notify the public works director within twenty-four (24) hours of becoming aware of the violation. Where the city has performed the sampling and analysis in lieu of the industrial discharger, the city must perform the repeat sampling and analysis within thirty (30) days after becoming aware of the violation unless it notifies the industrial discharger of the violation and requires that discharger to perform the repeat sampling and analysis. The industrial discharger shall also repeat the sampling and analysis and submit the results of the repeat analysis to the public works director within thirty (30) days after becoming aware of the violation. The industrial discharger is not required to resample if the POTW performs monitoring at the industrial discharger's at least once a month, or if the POTW performs sampling between the industrial discharger's initial sampling and when the industrial discharger receives the results of this sampling.
- (h) All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and WAC 173-216-125. If 40 CFR Part 136 or WAC 173-216-125 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.
- (i) Except as indicated below, the industrial discharger must collect wastewater samples using twenty-four (24) hour flow proportional composite collection techniques. In the event twenty-four (24) hour flow proportional composite sampling is infeasible, the public works director may authorize the use of time proportional composite sampling or a minimum of four grab samples where the industrial discharger demonstrates that this will provide a representative sample of the actual effluent being discharged to the POTW and the public works director shall document the decision to allow alternative sampling in the discharger's facility file. In addition, grab samples may be required to show compliance with instantaneous discharge limits. Samples to be analyzed for fats, oil and grease (FOG), temperature, pH, cyanide, phenols, toxicity, sulfides, metals and volatile organic compounds shall be obtained using grab collection techniques.
  - (1) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the city. For dischargers subject to categorical pretreatment standards, if other wastewaters are mixed with the regulated wastewater prior to pretreatment the discharger should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the applicable pretreatment standards.
  - (2) All sample results shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges from the industrial discharger. If a discharger subject to the reporting requirements in and of this section monitors any pollutant more frequently than required by the city, it must submit the results of this extra sampling and analysis of the discharge as part of its self-monitoring report.
- (j) The public works director may use a wastewater grab sample(s) to determine noncompliance with applicable pretreatment standards.
- (k) Any reports required by this chapter and submitted by the industrial discharger shall be signed by an authorized representative of the discharger. If applicable pretreatment standards or requirements are not being met, the statement also must be signed by an engineer qualified in pretreatment system design. Any person signing the report shall make the following certification:

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

- (l) Written reports shall be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern. The public works director shall develop and implement procedures to receive and analyze reports and other notices submitted by industrial dischargers.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.150 - Monitoring equipment.

- (a) The city may require a discharger to install and operate, at the discharger's own expense, monitoring equipment to allow inspection, sampling, and flow measurement of all discharges into the sewer system, to assure compliance with this chapter. The monitoring equipment shall be situated on the discharger's premises, except that if such a location would be impractical or cause undue hardship on the discharger, the city may allow such equipment to be installed in an accessible public street or sidewalk area.
- (b) There shall be ample room in or near such monitoring equipment to allow accurate wastewater sampling and preparation of samples for analysis by the discharger and the city. The monitoring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the discharger.
- (c) All monitoring equipment shall be installed and maintained in accordance with all applicable standards and specifications. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.160 - Inspection and sampling.

- (a) To assess compliance with this chapter, independent of any information provided by an industrial discharger, the city shall have the right to inspect, conduct surveillance of, and collect wastewater samples from all monitoring equipment, sewer lines, and plant facilities, and to examine and copy any discharge related records, during all hours that a discharger is operating or whenever employees are on the premises. The city will normally schedule such inspections upon seven days' notice, but, if deemed appropriate or necessary, shall have the right to make unscheduled inspections without prior notice. The city shall have the right to erect or install on the discharger's property such devices as are reasonably necessary to conduct sampling, inspection, compliance monitoring or metering operations. It will be unlawful under this chapter to interfere with any city sampling equipment or samples.
- (b) Where an industrial discharger has security measures in force which require proper identification and clearance before entry into its premises, the industrial discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the city, the Regional WWTP, state, and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.

- (c) Failure to allow inspection, sampling, monitoring, metering, or copying as authorized by this section shall be grounds for termination of wastewater treatment services as well as any other enforcement action authorized under this chapter and deemed appropriate by the public works director.
- (d) If the public works director has been refused access to a building, structure or property or any part thereof, and if the public works director has demonstrated probable cause to believe that there may be a violation of this chapter or that there is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this chapter or any permit or order issued hereunder, then upon application by the city attorney, a judge of a competent jurisdiction will issue a search and/or seizure warrant describing herein the specific location subject to the warrant. The warrant will specify what, if anything, may be searched and/or seized on the property described. Such warrant will be served at reasonable hours by the public works director in the company of a uniformed police officer of the city. In the event of an emergency affecting public health and safety, inspections will be made without the issuance of a warrant.
- (e) The public works director shall develop and implement procedures to randomly sample and analyze the effluent from industrial users and conduct surveillance activities to better identify, independent of information supplied by industrial dischargers, occasional and continuing noncompliance with applicable pretreatment standards. The public works director shall inspect and collect and analyze effluent samples from each significant industrial discharger at least once per year. The public works director shall investigate instances of noncompliance indicated by information provided by industrial dischargers and by the public works director's independent inspection, sampling, and analysis.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.165 - Vandalism.

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

(Ord. 2565 § 1 (part), 2008)

#### 12.12.170 - Confidential information.

- (a) Information and data furnished to the city with respect to the nature and frequency of discharge will be available to the public or other governmental agency without restriction unless the discharger specifically requests and is able to demonstrate that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the discharger under the laws or regulations of the state or federal government. If a discharger furnishing a report requests that information provided as part of a report be kept confidential, and the discharger marks said pages as "confidential," then the portions so marked of a report or other information which may disclose trade secrets or secret processes protected by state or federal law, will not be made available for inspection by the public, subject to the provisions of Chapter 42.17 RCW, as now or as it may be amended, but will be made available upon written request to governmental agencies for uses related to this chapter, the Regional WWTP NPDES permit, state waste discharge permit and/or the pretreatment programs; provided, however, that such portions of a report or other information will be available for use by the state or any state agency in judicial review or enforcement proceedings involving the discharger furnishing the report. Wastewater constituents and characteristics, other "effluent data" as defined by 40 CFR 2.302, and information for which claims of confidentiality must be denied pursuant to WAC 173-216-080 shall not be recognized as confidential information and shall be available to the public without restriction.
- (b) Information accepted by the city as confidential will not be transmitted to any governmental agency or to the general public by the city until and unless a ten (10) day notification is given to the discharger. Once notice of intent to release information has been given to the discharger, if the

discharger fails to contest the release, then any rights created by this section shall be deemed to have been waived.

(Ord. 2565 § 1 (part), 2008)

#### Article VII. - Waste Discharge Permits and Authorizations

##### 12.12.175 - Waste discharge permit and authorization determination.

- (a) All new nonresidential dischargers (domestic and nondomestic) shall submit a completed preliminary industrial waste survey to the city for its review and determination of whether the nonresidential discharger will need to contact ecology to apply for a waste discharge permit before discharging to the POTW or receive authorization from the city to discharge to the POTW without receiving a waste discharge permit. This preliminary industrial waste survey shall be filed within thirty (30) days of being received by the nonresidential discharger, unless the nonresidential discharger requests in writing a thirty (30) day extension from the public works director and the public works director approves the request in writing. The preliminary industrial waste survey shall be signed by an authorized representative of the nonresidential discharger and in the form prescribed by the city. The public works director may require either additional information or a follow up industrial waste survey (IWS), as described in Section 12.12.180(b). Should the public works director approve the IWS, it shall satisfy Section 12.12.180(b)(1) for purposes of applying for a waste discharge permit from ecology, if applicable. Existing nonresidential dischargers shall submit a preliminary IWS when requested to do so by the city (see Section 12.12.130(b)).
- (1) Ecology Waste Discharge Permit Required. Should the public works director determine that a waste discharge permit is required, the discharger shall contact ecology and follow ecology's requirements for obtaining a waste discharge permit.
  - (2) City Authorization Required. Should the public works director determine that a waste discharge permit is not required, the public works director shall determine which of the terms and conditions of this chapter apply prior to granting authorization to discharge to the POTW. All nonresidential dischargers receiving authorization to discharge to the POTW shall comply with Section 12.12.180.

Nothing in this chapter shall relieve any discharger to the POTW from the requirement to apply all known, available, and reasonable methods to prevent and control waste discharges to the waters of the state, or the requirement to obtain approval of plans and reports for the construction of wastewater facilities, or any other applicable requirement contained in this chapter or state or federal law. Nothing herein shall limit the authority of the city to take enforcement action for any unlawful discharge of waste materials or other violations of this chapter.

(Ord. 2565 § 1 (part), 2008)

##### 12.12.180 - City authorization required.

- (a) The public works director may authorize long term, short term or temporary wastewater discharges into the POTW. All authorized wastewater discharges shall comply with pretreatment standards and regulations (Section 12.12.060), limitations on wastewater strength (Section 12.12.070), and protect the POTW from slug load or accidental discharges (Section 12.12.080). Failure to comply shall subject the discharger to the enforcement provisions of Article VIII of this chapter and all industrial dischargers located outside of the city's boundaries that receive authorization to discharge from the city shall accept the city's authority to impose those enforcement provisions as a condition to discharging wastewater into the POTW. The public works director may condition the authorization as necessary to comply with the provisions of this chapter, and may deny requests under Article VII on the grounds that the discharge would violate any provision of this chapter.

(b) Discharge Authorization Procedure.

- (1) Nonresidential dischargers shall submit a completed industrial waste survey (IWS) to the public works director. The survey shall include a complete written description of the proposed project, including the reason for the discharge, rate and duration of the discharge, a site map and plumbing plan showing the location and method to discharge the wastewater, a legal description of the property, and the name and phone number of a contact person. The survey shall also contain an analysis of the water to be discharged and the volume of wastewater discharged.
- (2) The survey shall be signed by an authorized representative of the discharger.
- (3) The public works director will review the survey for completeness and, within thirty (30) days, may return to the applicant any incomplete survey with a request for information necessary to complete the survey. Any survey not so returned shall be deemed complete. If returned, the survey shall not be considered complete unless and until the discharger resubmits the survey with the requested information.
- (4) Further information or applications may be requested from the discharger by the public works director to help determine the status of the discharger or to assist in setting the terms and conditions of the authorization.
- (5) City authorization to discharge to the POTW shall include conditions as are deemed reasonably necessary by the public works director to prevent pass through or interference, protect the quality of POTW's receiving water body, protect worker health and safety, facilitate biosolids management and beneficial reuse, and protect against damage to the POTW. The public works director may include any requirements of this chapter to achieve these goals.
- (6) Notification of a change in the volume or constituents of any authorized discharge shall be made thirty (30) days in advance of the change to provide the public works director time to consider if a new authorization will be required (see Section 12.12.140(d)).

(Ord. 2565 § 1 (part), 2008)

12.12.185 - Ecology waste discharge permit required.

- (a) No significant industrial discharger (existing or new) shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from ecology. Any violation of the terms or conditions of a wastewater discharge permit shall be deemed a violation of this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all applicable federal and state standards or with any other applicable requirement of this chapter or federal or state law.

A significant industrial discharger whose permit has expired and who failed to submit its reapplication in the time period specified by ecology will be deemed to be in violation of this chapter. Any existing significant industrial discharger that does not possess a current, valid waste discharge permit issued by ecology and that intends to continue such discharge, shall immediately submit a complete permit application to ecology in accordance with this chapter.

- (b) At least one hundred twenty (120) days prior to the anticipated start-up, any new source which shall become a significant industrial discharger shall submit a complete permit application to ecology in accordance with this chapter. Such new source shall not discharge wastewater to the POTW without first receiving a waste discharge permit from ecology.
- (c) The public works director may require any other discharger to obtain a waste discharge permit as necessary to carry out the purposes of this chapter.
- (d) The following discharges are not subject to ecology waste discharge permits under this article:

- (1) Discharges of domestic wastes from industrial, commercial, or residential structures; provided that such discharges do not have the potential to cause interferences or result in pass through to the POTW.
- (2) Discharges of wastes from commercial or industrial sources whose wastewater is similar in strength to normal domestic wastewater; provided that such discharges do not have the potential to cause interferences or result in pass through to the POTW.

These exemptions shall not relieve any discharger from the requirement to apply all known, available, and reasonable methods to prevent and control waste discharges to the waters of the state, or the requirement to obtain approval of plans and reports for the construction of wastewater facilities, or any other applicable requirement contained in this chapter or state or federal law. Nothing herein shall limit the authority of the city to take enforcement action for any unlawful discharge of waste materials or other violations of this chapter.

(Ord. 2565 § 1 (part), 2008)

#### Article VIII. - Administrative Enforcement

##### 12.12.200 - Notification of violation.

Whenever the public works director finds that any discharger has violated or is violating this chapter, or an order issued hereunder, the public works director may serve upon said discharger written notice of the violation. Within ten (10) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the public works director. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(Ord. 2565 § 1 (part), 2008)

##### 12.12.210 - Consent orders.

- (a) The public works director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the discharger responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Such schedules may not extend the compliance date beyond applicable federal deadlines. Consent orders shall have the same force and effect as compliance orders issued pursuant to Section 12.12.220 of this chapter and shall be judicially enforceable.
- (b) Failure to comply with any terms or requirements of a consent order by the discharger shall be an additional and independent basis for termination of wastewater treatment services or for any other enforcement action authorized under this chapter and deemed appropriate by the public works director.

(Ord. 2565 § 1 (part), 2008)

##### 12.12.220 - Compliance orders.

- (a) When the public works director finds that a discharger has violated or continues to violate this chapter or any order issued hereunder, he may issue a compliance order to the discharger responsible for the violation directing that, following specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have

been installed and are properly operated and maintained. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. In establishing the compliance schedule in the compliance order, the public works director will consider applying to the schedule the conditions provided in Section 12.12.140(a)(7) of this chapter. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the discharger of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the discharger.

- (b) Failure to comply with any terms or requirements of a compliance order by the discharger shall be an additional and independent basis for termination of wastewater treatment services or for any other enforcement action authorized under this chapter and deemed appropriate by the public works director.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.230 - Cease and desist orders.

When the public works director finds that a discharger has violated or continues to violate this chapter or any order issued hereunder, the public works director may issue an order to cease and desist all such violations and direct those persons in noncompliance to: (1) comply forthwith; and (2) take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the wastewater discharge. Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the discharger.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.240 - Administrative penalties.

Notwithstanding any other section of this chapter, any discharger who is found by the public works director, to have violated any provision of this chapter, or orders issued hereunder, shall be penalized in the amount not to exceed one thousand dollars (\$1,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the discharger's next scheduled sewer-service charge and the public works director shall have such other collection remedies as he has to collect other service charges. Unpaid charges and penalties shall constitute a lien against the individual discharger's property. Issuance of an administrative fine shall not be a prerequisite for taking any other action against the discharger.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.250 - Recovery of costs incurred by the city.

Any discharger violating any of the provisions of this chapter who discharges or causes a discharge producing a deposit or obstruction or causes damage to or impairs the city's POTW shall be liable to the city for any reasonable expense, loss, fines, or damage caused by such violation or discharge. The city will bill the discharger for the cost incurred by the city for any cleaning, repair, replacement work, or other damages caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this chapter enforceable under the provisions of Articles VIII and IX of this chapter.

(Ord. 2565 § 1 (part), 2008)

12.12.260 - Emergency suspension of treatment services.

- (a) The public works director may order the suspension of wastewater treatment service after informal notice to the discharger if it appears to the city that an actual or potential discharge: (1) presents or threatens a substantial danger to the health or welfare of persons or to the environment; or (2) threatens to interfere with the operation of the POTW or to violate any pretreatment limits imposed by this chapter.
- (b) Any discharger notified of a suspension of the wastewater treatment service shall cease immediately all wastewater discharges. In the event of a discharger's failure to comply immediately and voluntarily with the suspension order, the public works director will take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage, including, but not limited to, the POTW, its biosolids or receiving waters, or endangerment to the health and welfare of any individuals. The city shall have the right of access onto the discharger's private property to accomplish such severance of the sewer line. The public works director will allow the discharger to recommence its wastewater discharge when the endangerment has passed, unless the termination proceedings set forth in Section 12.12.270 of this chapter are initiated against the discharger.
- (c) It shall be unlawful for any person to prevent or attempt to prevent the city from terminating wastewater treatment service in an emergency situation, by barring entry, by physically interfering with city employees or contractors, or by any other means.
- (d) Any discharger whose wastewater treatment service has been suspended pursuant to this section shall have the right to a post suspension hearing to be conducted in accordance with the procedures set forth in Section 12.12.280 of this chapter. A discharger which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the public works director prior to the date of the post-suspension hearing.

(Ord. 2565 § 1 (part), 2008)

12.12.270 - Termination of treatment services.

- (a) The public works director shall have authority to terminate wastewater treatment services for any discharger if it determines that the discharger has:
  - (1) Failed to accurately report wastewater constituents and characteristics;
  - (2) Failed to report significant changes in operations or wastewater constituents or characteristics;
  - (3) Refused reasonable access to the discharger's premises for purposes of inspection, monitoring, or sampling;
  - (4) Violated any condition of the discharger's waste discharge permit;
  - (5) Violated any of the provisions of this chapter; or
  - (6) Violated any lawful order of the city issued with respect to the chapter.

In the event any discharger declines to allow access to the discharger's premises for inspection, monitoring, or sampling, the public works director shall not enter such premises without first obtaining a duly issued judicial warrant.

- (b) The discharger shall be given written notice of the city's decision (and basis or bases therefore) to terminate wastewater services and shall have the right to a pre-termination hearing in accordance with the provisions of Section 12.12.280 of this chapter.

(Ord. 2565 § 1 (part), 2008)

12.12.280 - Administrative hearing.

- (a) A discharger shall have the right to an administrative hearing to contest the city's determination: (1) to suspend the discharger's wastewater services; (2) to terminate the discharger's wastewater services; (3) to impose administrative penalties against the discharger; (4) to bill the discharger for costs incurred by the city as a result of the discharger's violation or discharge; or (5) that the discharger has violated a consent, compliance, or cease and desist order.
- (b) Any hearing pursuant to this section must be requested by the discharger in writing within fifteen (15) days after the discharger receives notice of the city's determination. The discharger's written request for hearing shall be filed with the public works director. Failure to submit a timely notice shall be deemed to be a failure to exhaust administrative remedies and shall preclude any further review. The city will conduct the hearing within twenty (20) days of the receipt of the request (or within five days if the discharger is contesting suspension or termination of wastewater services).
- (c) The administrative hearing authorized by this section will be held before the public works director or the public works director's designee. Formal rules of evidence will not apply but the discharger and the city shall have the right to present witnesses and documentary evidence. The public works director or the public works director's designee will issue a written decision within ten (10) days of the conclusion of the hearing.
- (d) Any discharger requesting a hearing shall have the right to make an electronic or stenographic record of the proceedings. Such record shall be made at the discharger's expense.
- (e) Except as otherwise provided, all decisions by the public works director or the public works director's designee shall be final and conclusive on all parties unless appealed to the city council under Section 12.12.285 of this chapter.

(Ord. 2565 § 1 (part), 2008)

12.12.285 - Appeal to the city council.

- (a) Any decision of the public works director or the public works director's designee rendered pursuant to Section 12.12.280 of this chapter may be reviewed by appeal to the city council. The discharger must file written notice of appeal with the public works director within fifteen (15) days following notification of such decision or action. Such notice of appeal shall be set forth in reasonable detail the action or decision appealed and the discharger's grounds for reversal or modification thereof. Failure to submit a timely notice shall be deemed to be a failure to exhaust administrative remedies and shall preclude any further review.
- (b) Following receipt of such notice, the public works director will schedule a date for a public meeting by the city council at which time the city council shall consider the appeal. The date of the public meeting should be not later than twenty (20) days following the date the public works director receives notice of the appeal. The public works director will mail written notice to all parties of record to apprise them of the meeting date before the city council.
- (c) City council review of the facts shall not be limited to evidence presented to the public works director or the public works director's designee. The city council may request additional information or memoranda in order to reach a decision, provided that all parties of record are given an opportunity to respond to the material provided.
- (d) At the public meeting the city council may adopt, amend and adopt, reverse, amend and reverse the findings, conclusions, and decision of the public works director or the public works director's designee or remand the matter to the public works director or the public works director's designee.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.290 - Judicial review.

The decision of the city council on an appeal of the decision of the public works director or the public works director's designee shall be final and conclusive unless within twenty (20) days from the date of final action, the discharger files a petition for review in a court of competent jurisdiction in the manner prescribed by law.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.300 - Publication of enforcement actions.

- (a) A list of all dischargers that experience a significant violation of applicable pretreatment standards or other pretreatment requirements during the previous twelve (12) months shall be published, at least annually, by the city in the largest local daily newspaper of general circulation. For the purposes of this provision, a violation is a significant violation which meets one or more of the following criteria:
- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all of the wastewater measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l) for the same pollutant parameter;
  - (2) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the wastewater measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils, and grease, and 1.2 for all other pollutants except pH);
  - (3) Any other discharge violation of a pretreatment standard or requirement, as defined by 40 CFR 403.3(l) (daily maximum, longer-term average, instantaneous limit or narrative standard) that the city determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
  - (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 exercise of its emergency authority under Section 12.12.260 of this chapter to halt or prevent such a discharge;
  - (5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
  - (6) Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
  - (7) Failure to accurately report noncompliance;
  - (8) Failure to maintain records of pretreatment facility maintenance, including, but not limited to, cleaning and waste removal dates, and means of disposal of accumulated wastes; or
  - (9) Any other violation or group of violations which causes the city to expend considerable time or expense in tracking down the source of pollutants detected in the POTW wastewater influent, or which the city determines will adversely affect the operation or implementation of its pretreatment program.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.310 - Performance bonds and liability insurance.

The public works director may decline to reinstate wastewater treatment services for any discharger who has had its services suspended or terminated under the provisions of this chapter unless such discharger, at the discretion of the public works director, either: (1) first files with the public works director a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the public works director to be necessary to achieve consistent compliance; or (2) first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.320 - Operating upsets.

- (a) Any discharger that experiences an upset shall inform the public works director of the upset within twenty-four (24) hours of discovering the upset. Where such information is given orally, a written report describing the upset shall be filed with the public works director by the discharger within five days after the discovery. This report shall be based on properly signed, contemporaneous operating logs or other relevant evidence and shall include:
  - (1) A description of the upset, the cause of the upset and the impact of the upset on the discharger's compliance with this chapter.
  - (2) The duration of noncompliance (including exact dates and times) and, if noncompliance is continuing, the time by which the discharger expects to be in compliance.
  - (3) All steps which have been taken or will be taken to prevent the recurrence of the upset.
  - (4) Evidence that the facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.
- (b) A timely documented and properly verified operating upset shall be an affirmative defense to any enforcement action brought by the city against the discharger for failure to comply with this chapter to the extent that the enforcement action arises out of violations, which occurred during the period of upset; provided, however, that such an upset shall not relieve the discharger of any other liability for the upset including, but not limited to, liability for damages sustained by the POTW, the city, or third persons. In any enforcement proceeding, the discharger seeking to establish the occurrence of an upset shall have the burden of proof.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.330 - General/specific prohibitions.

A discharger shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibition against interference and pass through found in Section 12.12.060(b) of this chapter, or with the specific prohibitions found in Section 12.12.060(b)(2), (7), (8), (10) and (13) of this chapter, if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists under Section 12.12.070(e) of this chapter for each pollutant discharged and the discharger was in compliance with each limit directly prior to, and during, the pass through or interference, or (b) no local limit exists under Section 12.12.070(e) of this chapter, but the discharge did not change substantially in nature or constituents from the discharger's prior discharge when the city was regularly in compliance with the regional WWTP NPDES permit requirements, and in the case of interference, was in compliance with applicable biosolids use or disposal requirements.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.340 - Bypass.

- (a) A discharger may allow any bypass to occur which does not cause the pretreatment standards or requirements of Sections 12.12.060 and 12.12.070 of this chapter to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (b) and (c) of this section.
- (b) If a discharger knows in advance of the need for a bypass, it shall submit prior notice to the public works director, at least ten (10) days before the date of the bypass if possible. A discharger shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the public works director within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial discharger becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The public works director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- (c) Bypass is prohibited, and the city may take enforcement action against a discharger for a bypass, unless:
  - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - (3) The discharger submitted notices as required under subsection (b) of this section.
- (d) The public works director may approve an anticipated bypass, after considering its adverse effects, if the public works director determines that it will meet the three conditions listed in this subsection.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.350 - Records retention.

All dischargers subject to this chapter shall retain and preserve for no less than six years any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or on behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of an enforcement action or litigation shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired, but in no case less than six years.

(Ord. 2565 § 1 (part), 2008)

#### Article IX. - Judicial Enforcement

#### 12.12.360 - Judicial remedies.

If any person discharges sewage, industrial wastes, or other wastes into the city's wastewater collection or treatment system contrary to the provisions of this chapter or any order issued hereunder, the public works director, through the city attorney, may commence an action for appropriate legal and/or equitable relief in the court having jurisdiction over the matter (the city of Union Gap Municipal Court or the Yakima County Superior Court). Such judicial action may be in lieu of or in addition to any other administrative enforcement action authorized herein.

(Ord. 2565 § 1 (part), 2008)

12.12.370 - Injunctive relief.

Whenever a discharger has violated or continues to violate the provisions of this chapter or order issued hereunder, the public works director, through counsel, may petition the court having jurisdiction over the matter (the city of Union Gap Municipal Court or the Yakima County Superior Court) for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the discharger. The public works director shall have such remedies to collect fees associated with legal costs as it has to collect other sewer service charges. Such other action as appropriate for legal and/or equitable relief may also be sought by the city. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a discharger.

(Ord. 2565 § 1 (part), 2008)

12.12.380 - Civil penalties.

- (a) Any discharger who has violated or continues to violate an order of the city, or who fails to comply with: (1) any provision of this chapter, or (2) any rule or order of the city, issued pursuant to this chapter, shall be liable to the city for a civil penalty. The amount of such civil penalty shall be at least one thousand dollars (\$1,000.00) per violation but not more than ten thousand dollars (\$10,000.00) per violation, plus actual damages incurred by the POTW. Each day upon which a violation occurs or continues shall constitute a separate violation. Unpaid civil penalties shall constitute a lien against the individual discharger's property. In addition to the above described penalty and damages, the public works director may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses. A discharger's failure to pay such civil penalties shall be grounds for termination of wastewater services.
- (b) The public works director will petition the court to impose, assess, and recover such civil penalties. In determining the amount of liability, the court will take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the discharger's violation, corrective actions by the discharger, the compliance history of the discharger, if available, and any other factor as justice requires.
- (c) Filing a suit for civil liabilities shall not be a prerequisite for taking any other action against a discharger.

(Ord. 2565 § 1 (part), 2008)

12.12.390 - Falsifying information.

Any person who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter (in addition to civil and/or criminal penalties otherwise provided by law) shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) per violation per day plus costs of prosecution or imprisonment not to exceed ninety (90) days or both.

(Ord. 2565 § 1 (part), 2008)

12.12.400 - Criminal penalties.

Any person who willfully, knowingly, recklessly or negligently violates any provision of this chapter through any act or omission shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than ten thousand dollars (\$10,000.00) per violation per day plus costs of prosecution or imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment. Each violation and each day of each violation shall constitute a separate offense.

(Ord. 2565 § 1 (part), 2008)

#### 12.12.410 - Remedies nonexclusive.

The provisions in Articles VIII and IX of this chapter are not exclusive remedies. The city reserves the right to take any, all, or any combination of these actions against a noncompliant discharger.

(Ord. 2565 § 1 (part), 2008)

#### Article X. - Additional Provisions

#### 12.12.420 - Septage and liquid waste hauling requirements.

- (a) It is unlawful for any person, firm or corporation to engage in the business of cleaning or pumping out private wastewater disposal systems in the city or to remove, transport or dispose of septage from private wastewater disposal systems by transporting the same across or along any of the streets, alleys, or public ways of the city without having first complied with the terms of this section. It is unlawful for anyone to discharge any trucked or hauled waste including, but not limited to, septage from private wastewater disposal systems at any location within the city service area, except at discharge points specifically designated by the POTW or which have been approved in writing by the public works director. Anyone discharging any trucked or hauled waste into the city's wastewater collection or treatment system must comply with the pretreatment standards and requirements set forth in this chapter.
- (b) No person, firm or corporation engaged in septage hauling will be allowed to discharge septage into the POTW unless they comply with the following septage hauling requirements:
  - (1) Hold a valid septage hauling permit from the Yakima Health District;
  - (2) Carry liability insurance of such kind and in such amount as the city may require to protect itself from any loss or damage that may directly or indirectly be occasioned by the discharge of septage into the POTW;
  - (3) Complete a septage waste manifest (in triplicate) obtained from the public works department prior to arrival at the POTW; and
  - (4) Prevent the commingling of industrial wastewater, process wastewater, biosolids and domestic wastewater. Any wastewater collected from a business or industry must receive a written authorization from the public works director before discharge into the POTW is allowed. Any wastewater collected from a business or industry must be discharged into the POTW first before wastewater from another business or industry is collected.
- (c) The city shall have the right to inspect and sample any trucked or hauled waste before allowing its discharge to the POTW to verify compliance with the provisions of this chapter and any applicable federal or state laws.
- (d) The city shall have the right to refuse the discharge of any trucked or hauled waste to the POTW if it determines within its absolute discretion that the discharge of such trucked or hauled waste would not comply with the provisions of this chapter and any applicable federal or state laws.
- (e) The discharge of any trucked or hauled waste containing hazardous wastes, as defined under applicable federal and state laws and regulations, to the POTW shall be strictly prohibited.

- (f) Failure to comply with the terms of this section shall subject the person, firm or corporation responsible for the failure to the penalties specified in Article VIII of this chapter.

(Ord. 2565 § 1 (part), 2008)

12.12.430 - Regulations.

The public works director will have the authority to promulgate written regulations consistent with this chapter.

(Ord. 2565 § 1 (part), 2008)

12.12.440 - Severability.

The provisions of this chapter are severable, and if any provision of this chapter, or the application of any provision of this chapter to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this chapter shall not be affected thereby.

(Ord. 2565 § 1 (part), 2008)

# **SEWER USE ORDINANCE**

## **TERRACE HEIGHTS SEWER DISTRICT**

## RESOLUTION NO. 2-2011

**A RESOLUTION PROVIDING AUTHORITY TO IMPLEMENT AND ENFORCE A WASTEWATER PRETREATMENT PROGRAM, PROVIDING AUTHORITY TO THE WASHINGTON STATE DEPARTMENT OF ECOLOGY TO IMPLEMENT AND ENFORCE CERTAIN WASTE DISCHARGE PERMITS; PROVIDING THE AUTHORITY TO ALLOW CERTAIN DISCHARGES TO THE DISTRICT'S PUBLICLY OWNED TREATMENT WORKS; PROVIDING ACCURATE REFERENCES TO THE TERRACE HEIGHTS SEWER DISTRICT; AND REPEALING RESOLUTION 1-2008.**

WHEREAS, the Terrace Heights Sewer District (District) must implement a wastewater pretreatment program to control discharges from all non-residential users to its Publicly Owned Treatment Works (POTW) pursuant to requirements set out in 40 CFR Part 403, Chapter 90.48 RCW, Chapters 173-208 WAC, 173-216 WAC, 173-201A WAC, and 173-240 WAC, and the City of Yakima's National Pollutant Discharge Elimination System (NPDES) Permit for the Regional Wastewater Treatment Plant; and

WHEREAS, the City of Yakima has implemented, and received authority from Ecology for, a fully delegated pretreatment program, including issuance of wastewater discharge permits to industrial dischargers and the authority to enforce such permits; and

WHEREAS, the District, through the Washington State Department of Ecology (Ecology), is required by the City of Yakima's NPDES Permit to issue and enforce certain Waste Discharge Permits; and

WHEREAS, the District has the authority to allow certain discharges to the District's POTW; and

WHEREAS, the District entered into a special agreement with the City of Yakima, Yakima County, the City of Union Gap, and the City of Moxee on October 10, 2005;

BE IT RESOLVED BY the Board of Commissioners of the Terrace Heights Sewer District, Washington:

1. That Resolution 1-2008 is hereby repealed; and
2. The Sewer Use and Pretreatment Regulations, and the various Sections thereof, are hereby enacted as follows:

## **SEWER USE AND PRETREATMENT REGULATIONS**

### **PART 1 - GENERAL PROVISIONS**

#### **1.1 Purpose and policy.**

This Resolution sets forth uniform requirements for dischargers into the District's Publicly Owned Treatment Works (POTW), and enables the District to protect public health in conformity with all applicable local, state and federal laws relating thereto, including the Clean Water Act (33 U.S.C. 1251 et seq.) and the General Pretreatment Regulations (40 CFR part 403). This Resolution shall apply to all users of the POTW.

The objectives of this Resolution are the following:

1. To promote the health, safety and welfare of those persons within the District's sewer system service area;
2. To ensure proper and safe connections to the POTW;
3. To prevent the introduction of pollutants into the POTW that could interfere with the normal operation of the POTW;
4. To prevent the introduction of pollutants into the POTW that would not receive adequate treatment in the POTW and that would pass through the POTW into receiving waters or the atmosphere or otherwise be incompatible with the POTW;
5. To ensure that the quality of biosolids from the POTW is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
6. To protect POTW personnel who may be affected by wastewater and biosolids in the course of their employment and to protect the general public;
7. To improve the opportunity to recycle and reclaim wastewater and biosolids from the POTW; and
8. To enable the District to comply with the City of Yakima's NPDES permit conditions, biosolids utilization and beneficial reuse requirements and any other federal or state laws to which the POTW is subject.

This Resolution provides for the regulation of discharges into the District's POTW through the enforcement of administrative regulations. This Resolution authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires discharger reporting. This Resolution also authorizes Ecology to issue and enforce Waste Discharge Permits on behalf of the District. This Resolution does not provide for the recovery of operations, maintenance, or replacement costs of the

POTW or the costs associated with the construction of collection and treatment systems used by industrial dischargers, in proportion to their use of the POTW, which are the subject of separate resolutions.

## **1.2 Administration.**

Except as otherwise provided, the District Manager shall administer, implement, and enforce the provisions of this Resolution. Any powers granted to or duties imposed upon the District Manager may be delegated by the District Manager to other District personnel or agents.

## **PART 2 - DEFINITIONS**

### **2.1 Definitions.**

Unless the context specifically indicates otherwise, the meaning of terms used in this Resolution shall be as follows:

1. "Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act (33 U.S.C. 1251 et seq.), in its current form or as it may be amended.
2. "Applicable pretreatment standards" for any specified pollutant means the District's specific limitations on discharge, the state standards, or the national categorical pretreatment standards (when effective), whichever standard is most stringent in a given situation.
3. "Authorized representative" means:
  - a. If the industrial discharger is a corporation, the president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or the manager of one or more manufacturing, production, or operation facilities provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
  - b. If the industrial discharger is a partnership or sole proprietorship, a general partner or proprietor, respectively;

- c. If the industrial discharger is a federal, state or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;
  - d. The individuals described in paragraphs a through c above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the District.
- 4. "Backwater valve" means a device installed in a drainage system to prevent reverse flow.
  - 5. "Best management practices" mean schedules of activities, prohibitions of practices, maintenance procedures and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b) and treatment requirements, operating procedures and practices to control facility site runoff, spills or leaks, sludge or waste disposal or drainage from raw materials storage.
  - 6. "Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty degrees Centigrade (20 degrees C), expressed in milligrams per liter (mg/L).
  - 7. "Board of Commissioners of the District" means the duly elected or appointed Board of Commissioners of the Terrace Heights Sewer District.
  - 8. "Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharged wastewater from inside the walls of the building and conveys it to the building sewer connection, beginning five (5) feet outside the exterior face of the building wall.
  - 9. "Building Sewer" means that part of the horizontal piping of a drainage system, which extends from the end of the building drain and which receives the discharge from the building drain, conveying it to the public sewer.
  - 10. "Bypass" means the intentional diversion of wastestreams from any portion of an industrial discharger's treatment facility.
  - 11. "Categorical pretreatment standards or categorical standards" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of industrial dischargers and which appear in 40 CFR Chapter I, Subchapter N, Parts 405 through 471.

12. "CFR" means the Code of Federal Regulations.
12. "City" means the City of Yakima or its authorized agent or representative.
13. "Color" means the optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.
14. "Composite sample" means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
15. "Discharger - industrial discharger or user" means any nondomestic user who discharges a liquid-carried effluent, or wastewater, into a POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, intercepting ditches, or any constructed devices and appliances appurtenant thereto. The term "industrial discharger" specifically includes the owner or operator of a shopping center or shopping mall.
16. "District" means the Terrace Heights Sewer District or its authorized agent(s) or representative(s).
17. "Domestic discharger or user" means any single-family or multi-family residential customer or commercial business customer discharging domestic wastewater only.
18. "Domestic wastewater" means water from any domestic user or other discharger carrying human waste, kitchen, bath and laundry waste, and housekeeping materials in volume and/or concentration normally discharged from these classes of customers, together with such groundwater infiltration or surface waters as may be present.
19. "Ecology" means the Washington State Department of Ecology.
20. "Environmental Protection Agency (EPA)" means the U.S. Environmental Protection Agency.
21. "Existing discharger" or "existing user" means any non-categorical user which was discharging wastewater prior to the effective date of this Resolution.
22. "Existing source" means any source of discharge of wastewater, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
23. "Floatable oil" means fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A

wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

25. "Food processing" means the preparation of fruits or vegetables for human or animal consumption, including, but not limited to, the preparation of fruits or vegetables for wholesale or retail sale by washing and/or processes in which the skin of the fruit or vegetable is not broken and in which the interior part of the fruit or vegetable does not come in direct contact with the wastewater.
26. "Food processing wastewater" means wastewater that contains wastes generated by food processing and that is discharged into the food processing wastewater system. "Food processing wastewater" does not include any domestic or industrial wastewater except as set forth above.
27. "Food processing wastewater sewer" means the system for the collection and treatment of food processing wastewater. This definition includes any devices or systems used in the collection, storage, treatment, recycling, or reclamation of food processing wastewater and any conveyances that convey food processing wastewater to the food processing wastewater treatment plant.
28. "Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.
29. "Grab sample" means a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
30. "Indirect discharge" means the discharge or the introduction of nondomestic pollutants from a source regulated under Section 307(b), (c), or (d) of the Act, into a POTW. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.
31. "Industrial discharger" means "discharger - industrial discharger or user" as defined above.
32. "Industrial sewer" means a drain or sewer which carries industrial wastewater only, as distinct from "process sewer", "sanitary sewer" or "storm sewer".
33. "Industrial wastewater" means water or liquid-carried waste from any industrial, manufacturing, trade, or business which includes some combination of process wastewater, domestic wastewater, noncontact cooling water, contaminated stormwater, or contaminated leachates, as distinct from "domestic wastewater" or "process wastewater" or "noncontact cooling water".

34. "Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the normal operation of the District's POTW, or which causes a violation of any requirement of the Regional Wastewater Treatment Plants's NPDES permit including an increase in the magnitude or duration of a violation or any increase in the cost of treatment of sewage or in the cost of sewage biosolids utilization or beneficial reuse in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations); Section 405 of the Clean Water Act (33 U.S.C. 1345 et seq.); the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901 et seq.); any state regulations contained in any state biosolids management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act (42 U.S.C. 7401 et seq.); the Toxic Substances Control Act (TSCA) (15 U.S.C. 2601 et seq.); and the Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1401 et seq.).
35. "Lower explosive limit" or "LEL" means the lowest concentration of a gas-in-air mixture at which the gas can ignite.
36. "Manager" means the Manager of the Terrace Heights Sewer District, or his/her authorized deputy, agent, or representative.
37. "May" is permissive.
38. "Medical waste" means isolation wastes, infectious agents, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.
39. "Mg/L" means milligrams per liter.
40. "Minor industrial discharger or user (MIU)" means an industrial discharger that meets one or more of the following criteria:
- a. Discharges wastewater which meets, at least, one of the following criteria:
    - (1) Daily average process wastewater flows exceed 5,000 gallons per day, but not more than 25,000 gallons per day (excluding sanitary, non-contact cooling water and boiler blowdown); or
    - (2) Maximum daily discharge volume which exceeds one (1) percent of the average dry weather hydraulic or organic capacity of the POTW; or
  - b. Is otherwise deemed by the District to be categorized as an MIU.
41. "Natural outlet" means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

42. "New discharger" or "new user" means a user that is not regulated under federal categorical pretreatment standards but that applies for a new building permit or occupies an existing building and plans to commence discharge of wastewater to the District's collection system after the effective date of this Resolution. Any person that buys an existing facility that is discharging non-domestic wastewater will be considered an "existing discharger" or "existing user" if no significant changes are made in the manufacturing operation.
43. "New source" means any building, structure, facility, or installation from which there is or may be a discharge of wastewater, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
- a. The building, structure, facility or installation is constructed at a site at which no other source is located; or
  - b. The building, structure, facility or installation totally replaces the process that generates or causes the discharge of wastewater at an "existing source"; or
  - c. The production of wastewater generating processes of the building, structure, facility or installation are substantially independent of an "existing source" at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the "existing source", should be considered.

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

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

- a. Begun, or caused to begin as part of a continuous onsite construction program:
  - i. Any placement, assembly, or installation of facilities or equipment; or
  - ii. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
44. "Noncontact cooling water" means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Cooling water may be generated from any use, such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.
45. "North American Industry Classification System (NAICS). Means a system used by business and government to classify and measure economics activity in Canada, Mexico, and the United States. It is in the process of replacing the older Standard Industrial classification (SIC) code system.
46. "NPDES" means the National Pollutant Discharge Elimination System permit program as administered by the EPA or Ecology.
47. "O & M" means operation and maintenance.
48. "Other wastes" means decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals, and all other substances except sewage and industrial wastewater.
49. "Pass through" means a discharge or pollutant which enters and subsequently exits the POTW into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Regional Wastewater Treatment Plant's NPDES permit (including an increase in the magnitude or duration of a violation).
50. "Permit", unless the context clearly dictates otherwise, means a "wastewater discharge permit" as defined in this Resolution.
51. "Permittee" means a person, discharger or user issued a wastewater discharge permit.
52. "Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state or local governmental entities.
53. "pH" means the logarithm of the reciprocal of the mass of hydrogen ions in grams per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of  $10^{-7}$ . pH is a measure of a substance's corrosivity (acidity or alkalinity).

54. "Pollutant" means any substance discharged into a POTW or its collection system which, if discharged directly, would alter the chemical, physical, thermal, biological, or radiological integrity of the water of the state, or would or be likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to any legitimate beneficial use, or to any animal life, either terrestrial or aquatic. Pollutants include the following: dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage biosolids, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, and odor).
55. "POTW" means publicly owned treatment works (sometimes termed "wastewater facilities" or "wastewater treatment system" or "wastewater treatment works" or "water pollution control facility"). POTW designates a "treatment works" as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the state or municipality. This 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 wastewater to a wastewater treatment plant. The term also means the municipal entity having responsibility for the operation and maintenance of the treatment works.
56. "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless specifically allowed by an applicable pretreatment standard.
57. "Pretreatment requirement" means any substantive or procedural requirement related to pretreatment imposed on an industrial discharger, other than a pretreatment standard.
58. "Pretreatment standard" means discharge standards, categorical pretreatment standards, and local limits.
59. "Private wastewater disposal system" means any system of piping, treatment devices, or other facilities, including a septic tank, that convey, store, treat, or dispose of sewage on the property where it originates or on adjacent or nearby property under the control of the user where the system is not connected to a public sewer.
60. "Process sewer" means a drain or sewer which carries process wastewater only, as distinct from "industrial sewer", "sanitary sewer" and "storm sewer".

61. "Process wastewater" means water or liquid-carried waste discharged from one or more industrial, manufacturing, trade, or business practices or from the development, recovery, or processing of natural resources. Process wastewater does not include domestic waste or noncontact cooling water. Process wastewater may refer to one process discharge or several commingled process discharges.
62. "Prohibitive discharge standard" means any regulation developed under the authority of Section 307(b) and (c) of the Act (33 U.S.C. 1317(b)(c)), the General Pretreatment Regulations (40 CFR part 403), the state or by the District which prohibits the discharge of certain types or characteristics of wastewater. These prohibitions can be 'general' or 'specific' and are contained in Section 4.1 of Part 4 of this Resolution.
63. "Public sewer" means a sewer constructed for conveyance of liquid wastes which is controlled by a public authority.
64. "Qualified wastewater treatment operator" means an individual who performs routine pretreatment duties, or supervision of such duties on-site at a discharger's pretreatment facilities which affect effluent quality, and who (a) holds, at least, a valid State of Washington Wastewater Treatment Operator 1 certification, or (b) who has successfully completed a course of study which, in the opinion of the Manager, contains all subject matter reasonably related to the duties of a Wastewater Pretreatment Operator.
65. "RCW" means the Revised Code of Washington.
66. "Sanitary sewer" means a drain or sewer which carries sewage, as distinct from "industrial sewer", "process sewer" and "storm sewer". Sanitary sewers may carry "industrial wastewater" or "process wastewater" commingled with "domestic wastewater".
67. "Septage" or "septic tank waste" means, but is not limited to, septic tank pumpings, portable toilet pumpings, sump pumpings, camper and trailer pumpings, food-service grease traps, and biosolids from private wastewater disposal systems and lagoons.
68. "Severe property damage" means substantial physical damage to property, damage to the wastewater treatment or pretreatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
69. "Sewage" means water-carried human wastes or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm, or other waters as may be present. (The preferred term is "wastewater".)

70. "Sewage works" shall have the same meaning as POTW.
71. "Sewer" means any pipe, conduit, ditch, or other device used to collect and transport sewage.
72. "Shall" is mandatory.
73. "Significant industrial discharger or user (SIU)" means an industrial user of the POTW who:
- a. Is subject to categorical pretreatment standards ; or
  - b. Discharges an average of twenty-five thousand gallons per day (25,000 gpd) or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); or
  - c. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - d. Is designated as such by the District on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

Upon a finding that an industrial user meeting the criteria of subparagraph b,c, or d has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the District may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in 40 CFR 403. 8 (f) (6), determine that such user should not be considered a significant industrial user.

73. "Slugload" means any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a single extraordinary discharge episode of such volume or strength as to cause a violation of this Resolution, including, but not limited to, the following: interference to the POTW, or flowrate exceeding the permitted peak flow, or ten (10) percent of the capacity of the available trunk sewer, whichever is greater.
74. "Standard Industrial Classification (SIC) Code" means a classification pursuant to the "Standard Industrial Classification Manual" issued by the U.S. Office of Management and Budget.
75. "State" means the State of Washington.

76. "Storm sewer" (sometimes termed "storm drain") means a drain or sewer which carries storm and surface waters and drainage, but from which "domestic wastewater", "industrial wastewater" and "process wastewater" are intended to be excluded.
77. "Storm water" means any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.
78. "Suspended solids" means total suspended matter that either floats on the surface of, or is in suspension in water, sewage, or other liquids, and which is removable by laboratory filtering.
79. "Toxic pollutants" means those substances listed in the federal priority pollutant list and any other pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under Section 307 (33 U.S.C. 1317) of the Clean Water Act.
80. "Treatment plant effluent" means any discharge of water from the POTW into waters of the state.
81. "Unpolluted water" is water of quality equal to or better than the effluent limitations in effect or water that would not cause violation of the receiving water quality standards and would not be benefited by discharge to the public sewer and POTW.
82. "Upset" means an exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in Section 4.1 and Section 4.2 of this Resolution, or with the terms of pretreatment standards contained in an applicable wastewater 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 preventive maintenance, or careless or improper operation thereof.
83. "WAC" means the Washington Administrative Code.
84. "Wastewater" means water or liquid-carried industrial waste, or domestic waste or any modification thereto, or any other water-carried waste, including that which may be combined with any groundwater, surface water, or stormwater, that is or may be discharged to the POTW or a private wastewater disposal system. For purposes of this Resolution, "wastewater" shall also include "food processing wastewater".
85. "Wastewater discharge permit" means an authorization or equivalent control document issued by Ecology, on behalf of the District, pursuant to Part 7 of this Resolution allowing the discharger, under certain limitations, to discharge wastewater to the POTW. The permit may contain appropriate pretreatment standards and

requirements as set forth in this Resolution.

86. "Wastewater treatment plant or treatment plant" means that portion of the POTW designated to provide treatment of wastewater.
87. "Watercourse" means a natural or artificial channel for the passage of water either continuously or intermittently.

### **PART 3 - PUBLIC SEWER USE REQUIREMENTS**

#### **3.1 Use of public sewers required.**

- 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 any human or animal excrement, garbage, or other objectionable waste.
- B. It shall be unlawful to discharge into any public storm drain or ditch any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Resolution.
- C. Except as provided in this Resolution, 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 wastewater.
- D. The owners of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, 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 sewer of the District, are required at the owners' expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Resolution within ninety (90) days after date of official notice to do so, provided that said public sewer is within two hundred (200) feet of the property line.

#### **3.2 Building sewers and connections.**

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the District Manager.
- B. There shall be two classes of building sewer permits: (1) residential and commercial service, and (2) service to establishments producing industrial wastewater. In either case, the owner or his/her agent shall make application on a special form furnished by the District. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the District Manager. Permit and inspection fees shall be paid as required by applicable

provisions of this Resolution.

- C. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify and hold harmless the District from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The owner shall utilize only those construction contractors which are adequately bonded in accordance with the District's requirements at the time of connection to the sewer.
- D. A separate and independent building sewer shall be provided for every building, and only on each buildings' separate and independent lot, except under the following circumstances:
  - 1. Where one building stands in the rear of another building on an interior lot and no private or public sewer is available or can be constructed to the rear building through an adjoining court, yard, or driveway, the building drain from the front building may be extended to the rear building and the whole considered as one building sewer; or
  - 2. Where other circumstances, established to the satisfaction of the District Manager, indicate the need for a single sewer connection between separate and independent lots and there is a legally valid easement over the subservient lot.

The District does not and will not assume any obligation or responsibility for damage caused by or resulting from any single or multiple connection.

- E. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the District Manager, to be in good repair, to be suitable for this purpose, and to meet all requirements of this Resolution.
- F. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the edition of the Uniform Plumbing Code most recently adopted by the District and Yakima County.
- G. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by any approved means described in the edition of the Uniform Plumbing Code most recently adopted by the District and Yakima County, and found acceptable by the District Manager, and discharged to the building sewer.
- H. No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sewer, or

maintain such a connection.

- I. The connection of the building sewer into the public sewer shall conform to the requirements of the editions of the Uniform Building Code and Uniform Plumbing Code most recently adopted by the District and Yakima County. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the District Manager and, if necessary, the state building code council, before installation.
- J. The applicant for the building sewer permit shall notify the District Manager when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the District Manager or his/her representative.
- K. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the District.
- L. A properly functioning backwater valve shall be required in any building containing a basement, except in those situations which would not require a backwater valve as described in the edition of the Uniform Building Code most recently adopted by the District and Yakima County.
- M. The permit to install a backwater valve can be obtained from the District Manager or his representative. The District shall not be liable for damage due to wastewater backing up into a building where a properly functioning backwater valve has not been installed. The District also shall not be liable for damage due to wastewater backing up into a building where a backwater valve has been installed but has not been properly maintained or repaired.

#### **Part 4 - Pretreatment Standards and Requirements**

##### **4.1 Pretreatment standards and requirements.**

- A. No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, or noncontact cooling water, and unpolluted industrial wastewater to any sewer or natural outlet, unless approved by the District Manager and other regulatory agencies whose approval is required by law.
- B. No person shall discharge or cause to be discharged to the POTW, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. Furthermore, no discharger shall discharge or cause to be discharged to the POTW,

directly or indirectly, any of the following described substances unless prior written approval has been obtained from the District Manager:

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 to be injurious in any other way to the operation of the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit or sixty (60) degrees Centigrade using the test methods specified in 40 CFR 261.21. At no time shall two (2) successive readings on a combustible gas meter, at the point of discharge into the system (or at any point in the system), be over five (5) percent, nor any single reading over ten (10) percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, fuel oil, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and any other substances which are a fire hazard or hazard to the POTW.
2. Solid or viscous substances in quantities or of such size that they will or may cause reduction of the effective cross-sectional area of a sewer, obstruction to the flow in a sewer, or other interference with the operation of the POTW. In no case may solids greater than one-fourth (1/4) inch in any dimension be discharged to the POTW.
3. Any wastewater having a pH less than 5.5 or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the system.
4. Any wastewater having a BOD of more than three hundred (300) mg/L.
5. Any wastewater having a suspended solids content of more than three hundred (300) mg/L.
6. Any wastewater having a chlorine demand of more than twenty (20) mg/L.
7. Any wastewater having an animal/vegetable (polar) based floatable oil, fat waste, oil, or grease (whether or not emulsified), hexane or ether-soluble matter content in excess of one hundred (100) mg/L; or a mineral/petroleum (non-polar) based oil or grease (whether or not emulsified), hexane or ether-soluble matter content in excess of one hundred (100) mg/L; or any petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through; or any substance which may solidify or become discernibly viscous at temperatures above zero degrees Centigrade (0 degree C)(32 degrees F).
8. Any wastewater containing pollutants in sufficient quantity or concentration,

either singly or by interaction, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or to exceed the limitation set forth in categorical pretreatment standards, or state or local standards.

9. Any pollutants which result in the presence of toxic, noxious or malodorous liquids, gases, vapors, fumes, or solids within the POTW in a quantity that which either singly or by interaction are capable of creating a public nuisance or hazard to life or causing acute worker health and safety problems, or are sufficient to prevent entry into the sewers for their maintenance and repair.
10. Any substance which may cause the POTW's effluent or treatment residues, biosolids, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance be discharged to the POTW that, either alone or in combination with other discharges, will cause the POTW to be in noncompliance with biosolids use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; or with any criteria, guidelines, or regulations affecting biosolids use or disposal developed pursuant to the Solid Waste Disposal Act, 42 U.S.C. 6901 et seq., as now or as it may be amended, the Clean Air Act, 42 U.S.C. 7401 et seq., as now or as it may be amended, the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 et seq., as now or as it may be amended, or similar state statutes or regulations applicable to the biosolids management method being used.
11. Any substance which will cause the POTW to violate the City's NPDES and/or other disposal system permits.
12. 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 plant's effluent thereby violating the City's NPDES permit. Color, alone or in combination with turbidity, shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten (10) percent from the seasonably established norm for aquatic life.
13. Any slugload, which shall mean any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a single extraordinary discharge episode of such volume or strength as to cause a violation of this Resolution, including, but not limited to, the following: interference to the POTW, or flowrate exceeding the permitted peak flow, or ten (10) percent of the capacity of the available trunk sewer, whichever is greater.
14. Any biosolids, screenings, or other residues from the pretreatment of industrial wastewater discharges.
15. Any wastewater containing any radioactive wastes or isotopes of such halflife or

concentration as exceed limits established by the District in compliance with applicable state or federal regulations.

16. Any wastewater which causes a hazard to human life or creates a public nuisance.
  17. Any medical wastes.
  18. Any wastewater causing the treatment plant's effluent to fail a toxicity test.
  19. Any wastes containing detergents, surface active agents, or other substances in such concentrations that they may cause excessive foaming in the POTW.
  20. Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., as now or as it may be amended.
- C. No discharger shall discharge or cause to be discharged to the POTW, directly or indirectly, any of the following described substances unless discharged pursuant to a valid wastewater discharge permit:
1. Any wastewater with a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference; but in no case, wastewater with a temperature at the introduction into the POTW which exceeds forty degrees Centigrade (40 degrees C) (104 degrees F).
  2. Any trucked or hauled pollutants.
  3. Any dangerous wastes as defined in Chapter 173-303 of the Washington Administrative Code (WAC), as now or as it may be amended.
  4. Flows which have the potential to adversely affect the hydraulic loading of the POTW, including the following categories:
    - a. Non-contact cooling water;
    - b. Storm water and other direct inflow sources; and
    - c. Non-polluted water or water which would not receive significant treatment.
- D. Wastes prohibited by this Resolution shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial discharger's pretreatment facility prior to discharging to the POTW.
- E. The general and specific prohibitions provided by this Resolution apply to all dischargers to the POTW whether or not the discharger is subject to categorical pretreatment standards or requirements.

#### 4.2 Limitations on wastewater strength.

- A. National categorical pretreatment standards as adopted and hereafter amended or modified by the U.S. Environmental Protection Agency (EPA) pursuant to the Act shall be met by all dischargers of the regulated industrial categories. The national categorical standards found at 40 CFR Chapter I, Subchapter N, Parts 405 through 471 are hereby incorporated.
- B. State requirements and limitations on discharges to the POTW shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this Resolution or any other applicable ordinance.
- C. The District may, from time to time, amend this Resolution to provide for more stringent limitations or requirements on discharges to the POTW if such amendments are deemed necessary to comply with the objectives set forth in Section 1.1 of this Resolution, or are otherwise in the public interest.
- D. No discharger shall dilute its wastestream with potable or process water in any way, nor mix separate waste streams 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 Resolution.
- E. No discharger shall discharge wastewater containing concentrations (and/or mass limitations) that exceed any of the following local discharge limits unless prior written approval has been obtained from the District Manager:

<u>Pollutant <sup>(1)</sup></u>	<u>Daily Maximum Concentration (mg/L)</u>
Arsenic (As)	0.48
Cadmium (Cd)	0.049
Chloroform	0.67
Chromium (Cr)	5.0
Chromium (VI)	0.43
Copper (Cu)	0.30
Lead (Pb)	0.19
Mercury (Hg)	0.002
Molybdenum (Mo)	1.14
Nickel (Ni)	2.0
Selenium (Se)	0.419

Silver (Ag)	0.06
Sulfide (liquid phase)	0.5
Zinc (Zn)	4.2
Beta-BHC	0.01516
Endosulfan	0.06964
Endrin	0.00383
Alpha-Chlordane	0.00716
Gamma-Chlordane	0.00367
Chlorpyrifos	0.01298
Lindane	0.13324
Benzene	0.05 <sup>(3)</sup>
BTEX <sup>(2)</sup>	0.75 <sup>(3)</sup>

- (1) All pollutants are analyzed and reported as total mg/L.
- (2) BTEX is the sum of the measured concentrations of Benzene, Toluene, Ethylbenzene, and Xylene.
- (3) These pollutants are based upon treatment technology (air stripping/carbon capture) and are developed for discharges from groundwater cleanup or remediation activities or other effluents containing Benzene and/or BTEX and requiring the installation of treatment.

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. An industrial user, through enforcement action and/or permit compliance schedule, may be required to install treatment or otherwise reduce or halt a discharge of a pollutant to maintain compliance with Pretreatment Standards and Requirements and prevent interference with the operation of the POTW, pass through and adverse effects on the quality of the receiving waters, contamination of municipal biosolids, health and safety hazards to workers in the POTW, or violations of applicable federal or state regulations. The District may impose mass limitations on discharges in cases where necessary to be consistent with federal categorical pretreatment standards. Where a discharger is subject to a Categorical Pretreatment Standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply. The District may establish more stringent pollutant limits, mass-based limits, additional site-specific pollutant limits, Best Management Practices, or additional Pretreatment Requirements when, in the judgement of the District, such limitations are necessary to implement the provisions of this Resolution.

- F. All known, available, and reasonable methods of pretreatment, in accordance with RCW 90.48.010 and WAC 173-216-020(1), shall be used by a discharger to bring into compliance a wastewater discharge that does not comply with standards set forth

in this Resolution.

- G. The District reserves the right to enter into special agreements with industrial dischargers setting out special terms under which they may discharge wastewater to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial discharger may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance in accordance with 40 CFR 403.13 from the categorical pretreatment standard from EPA. Such a request will be approved only if the industrial discharger can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. An industrial discharger requesting a fundamentally different factor variance must comply with the procedural and substantive provision in 40 CFR 403.13.

#### **4.3 Slugload or accidental discharges.**

- A. Each discharger shall provide protection from a slugload or accidental discharge of prohibited or regulated materials or substances established by this Resolution. Where the District deems it necessary, a discharger shall provide and maintain, at the discharger's own cost and expense, facilities and operating procedures to prevent a slugload or accidental discharge of prohibited materials. When requested to do so, the discharger shall submit to the District Manager for review either a "slugload control plan" (SC Plan) or "a spill prevention, control and countermeasure plan" (SPCC Plan) or both showing facilities and operating procedures to provide this protection. The District Manager shall develop procedures to evaluate, at least once every two years, and within one year of a user's initial designation as a significant industrial discharger, whether each significant industrial user needs a SC Plan or SPCC Plan. No SC Plan or SPCC Plan shall be effective to satisfy the requirements of this Resolution unless it has been reviewed and certified by a Professional Engineer registered in the State of Washington. The SC Plan/SPCC Plan shall contain at a minimum the following elements:
1. Description of discharge practices, including non-routine and routine batch discharges;
  2. Description of stored hazardous substances;
  3. Procedures for immediately notifying the District of any accidental or slugload discharges, with procedures for follow-up written notification within five (5) days; and
  4. Procedures to prevent adverse impact from any accidental or slug discharge, including, but not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of

plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

Where applicable, the SPCC Plan shall also conform to guidelines found in 40 CFR, part 112 and to Ecology's "Guidelines to Prevent, Control, and Contain Spills from the Bulk Storage of Petroleum Products" (WDOE 83-8), as now or as they may be amended. Each discharger shall complete its SC Plan or SPCC Plan and submit same to the District Manager within 120 days of being notified by the District Manager to do so. The District Manager will approve the SC Plan or SPCC Plan before construction of any prevention facility. No discharger who discharges to the POTW after the aforesaid date shall be permitted to introduce pollutants into the system until such SC Plan or SPCC Plan has been approved by the District Manager. Review and approval of such plan by the District Manager shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this Resolution.

- B. A discharger who has prepared a SC Plan or SPCC Plan shall review and evaluate such plan at least every two (2) years from the date of approval. As a result of this review and evaluation, the discharger shall amend the SC Plan or SPCC Plan within six (6) months of the review to include more effective prevention and control technology if: (1) such technology will significantly reduce the likelihood of a spill event from the facility, and (2) if such technology has been field-proven at the time of the review. No amendment shall be effective to satisfy the requirements of this Resolution unless it has been reviewed and certified by a Professional Engineer registered in the State of Washington.
- C. Dischargers shall verbally notify the District Manager immediately upon the occurrence of a slugload or accidental discharge of substances prohibited by Resolution and take immediate action to correct the situation. Within five (5) days after the occurrence of the slugload or accidental discharge, the discharger shall follow-up with a written notification to the District Manager. The notifications shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions taken or to be taken. Any discharger who discharges a slugload of prohibited materials shall be liable for any expense, loss, or damage to the POTW, in addition to any other liabilities established by this or any other Resolution and the amount of any fines, penalties, damages or costs assessed against the District by the City, any state or federal agency, court of law or private individual, as a result of the slugload or accidental discharge.
- D. Signs shall be permanently posted in conspicuous places on discharger's premises, advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

- E. Significant industrial users shall verbally notify the District Manager immediately of any changes in its facility or operating procedures that will affect its potential for slug discharges. Within five days of its verbal notification, the discharger shall follow-up with a written notification to the District. Changes that will affect a facility's potential for slug discharges include, but are not limited to, significant changes to the hazardous substances stored at the facility and changes to the discharge practices associated with the facility's operating procedures.

#### **4.4 Pretreatment facilities.**

- A. Dischargers shall provide all known, available, and reasonable methods of prevention, control, and pretreatment as required to comply with this Resolution and state and federal regulations, and shall achieve compliance with all applicable pretreatment standards within the time limitations as specified by appropriate statutes, regulations, chapters, resolutions and ordinances. Where the District deems it necessary, a discharger shall provide, properly operate, and maintain, at the discharger's own cost and expense, facilities required to pretreat wastewater to a level acceptable to the District. When requested to do so, the discharger shall submit detailed plans showing the pretreatment facilities to the District Manager for review and acceptance before construction of the facility. The review of such plans by the District Manager shall in no way relieve the discharger from the responsibility of modifying its facility as necessary to produce an effluent acceptable to the District Manager under the provisions of this Resolution. The discharger shall obtain all necessary construction-operating permits from the District Manager. Prior to completion of the pretreatment facility, the discharger shall furnish its plan of operations and maintenance procedures for the District Manager to review. Such pretreatment facilities shall be under the control and direction of a qualified wastewater treatment operator.
- B. Any subsequent proposal for significant changes in the pretreatment facilities or method of operation shall be reported to and be accepted by the District Manager prior to the discharger's initiation of the changes.
- C. Pretreatment facilities shall comply with the applicable requirements of Chapter 173-240 and Section 173.216.110 of the Washington Administrative Code (WAC) and RCW 90.48.010, as now or as they may be amended, and with the accepted plan of operations and maintenance procedures. The District will have the opportunity to audit periodically the compliance of the discharger with all applicable requirements, and to require changes in the discharger's plan of operations and maintenance procedures in order to ensure the discharger's continued compliance with these requirements. The discharger shall then comply with the modified plan of operations and maintenance procedures, together with all applicable requirements as may be specified by this Resolution and federal and state regulations.
- D. All wastes discharged into the food processing sewer shall be adequately screened by a twenty (20) mesh or finer screen before discharge. An additional screen, with

openings not to exceed one-fourth inch square, shall be installed in a fixed position so that all material must pass through said screen immediately before entrance into the sewer.

- E. Grease, oil and sand interceptors shall be provided when, in the opinion of the District Manager, they are necessary for the proper handling of liquid wastes containing floatable or emulsified grease, fats, or oil in amounts exceeding those specified in Section 4.1, Subsection B, Paragraph 7 this Resolution, or any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. Such interceptors shall be provided within six (6) months of receipt of a written request from the District Manager to do so. Dischargers who operate restaurants, cafes, lunch counters, cafeterias, bars, or clubs; or hotel, hospital, sanitarium, factory or school kitchens; or other establishments that serve or prepare food where grease may be introduced to the sewer system shall have grease interceptors (grease traps) to prevent the discharge of fat waste, oil, or grease. Take-out food establishments or other establishments that prepare food, but do not cook in oil or grease, and who serve food only in disposable containers, may be exempted from this requirement, provided their discharges do not violate Section 4.1 (the General Discharge Prohibitions) of this Resolution. The grease interceptors shall be installed in the waste line leading from sinks, drains, or other fixtures where grease may be discharged. All new interceptors requested by the District Manager shall be of a type and capacity, conforming to and described in the edition of the Uniform Building Code most recently adopted by the District and Yakima County, and approved by the District Manager, and shall be located as to be readily accessible for cleaning and inspection. Dischargers must maintain these interceptors in a manner that will always prevent fat waste, oil, grease, flammable wastes, sand, or other harmful ingredients from being carried into the sewer system. The owner shall be responsible for the proper removal and disposal by appropriate means of the captured material, and shall maintain records of the dates and means of disposal which are subject to review by the District Manager. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by waste disposal firms currently licensed by the Yakima Health District. The collected materials removed from such interceptors shall not be disposed of in sanitary, industrial or storm sewers. Failure to provide or maintain such grease, oil and sand traps in accordance with the provisions of this Resolution shall automatically result in an administrative fine of \$250.00 under Section 8.5 of this Resolution. Additional penalties for repeated violations may be imposed by the District as provided for in Parts 8 and 9 of this Resolution.

#### **4.5 Unlawful conduct.**

It shall be unlawful for any person to maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or insert any substance described in Subsection C of Section 4.1 of this Resolution into any structure, appurtenance or equipment which is a part of the POTW, including but not limited to, manholes and the flush ends of sewer

lines. Any person found in violation of this requirement shall be subject to the sanctions set forth in Parts 8 and 9 of this Resolution.

## **Part 5 - Fees**

### **5.1 Charges and fees.**

Rates, charges and fees relating to the pretreatment program established by this Resolution shall be as set forth in other Resolutions.

## **Part 6 - Administration, Reporting, and Monitoring**

### **6.1 Industrial dischargers.**

- A. It shall be unlawful for any industrial discharger to discharge sewage, industrial wastewater, or any other wastes into the POTW except as authorized by the District and by Chapter 173-216 WAC, as now, or as it may be amended.
- B. The District shall have the right to deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial dischargers where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit. New sources and new dischargers shall not be allowed to discharge without first complying with the applicable pretreatment standards and requirements. New sources and new dischargers subject to the permitting requirements of Part 7 of this Resolution shall comply with those requirements.
- C. Compliance by existing sources with categorical pretreatment standards shall be within three (3) years of the date the categorical pretreatment standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR Chapter I, Subchapter N. Direct dischargers with NPDES permits modified or reissued to provide a variance pursuant to section 301(i)(2) of the Act shall be required to meet compliance dates set in any applicable categorical pretreatment standard. Existing sources which become industrial dischargers subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing industrial dischargers except where such sources meet the definition of a 'new source' within the meaning of this Resolution. New sources and new significant industrial dischargers shall install and have in operating condition, and shall start-up all pollution control equipment required to meet applicable pretreatment standard before beginning to discharge. Within the shortest feasible time (not to exceed ninety (90) days after the beginning of the discharge), new sources and new significant industrial dischargers must meet all applicable pretreatment standards.
- D. The District Manager shall establish a final compliance deadline date for any existing user not covered by an applicable categorical pretreatment standard or for any

categorical user when the local limits for said user are more restrictive than the applicable federal categorical pretreatment standard. Any existing industrial discharger that must comply with a more stringent local limit which is in non-compliance with any local limits shall be provided with a compliance schedule placed in an wastewater discharge permit to insure compliance within the shortest time feasible.

## **6.2 Industrial discharger identification and data disclosure.**

- A. The District Manager shall develop and implement procedures to identify all possible industrial dischargers and the character and volume of the discharge from those dischargers. The District Manager shall develop, maintain, and report a list of industrial dischargers as required by 40 CFR 403.8(f)(6). As required by 40 CFR 403.8(f)(2)(iii), the District Manager shall develop and implement procedures to notify all industrial users of users of applicable pretreatment standards and requirements.
- B. When requested by the District to do so, industrial dischargers shall complete and file with the District Manager an industrial waste survey (IWS) signed by an authorized representative of the industrial discharger and in the form prescribed by the District. This industrial waste survey shall be filed within thirty (30) days of being received by the industrial discharger, unless the industrial discharger requests in writing a thirty (30) day extension from the District and the District Manager approves the request in writing. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial discharger and shall be considered a violation of this Resolution.

## **6.3 Reporting requirements for industrial dischargers.**

- A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial dischargers subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the District Manager a report which contains the information listed below. At least one hundred twenty (120) days prior to commencement of their discharge, new sources, and sources that become significant industrial dischargers subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the District Manager a report which contains the information listed below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

The industrial discharger shall submit the information required by this Resolution including:

1. The name and address of the facility including the name of the operator and owners.
2. A list of any environmental control permits held by or for the facility.
3. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial discharger. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
4. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
5. A measurement of pollutants.
  - a. Identification of the categorical pretreatment standards applicable to each regulated process.
  - b. Submission of the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the District) of regulated pollutants in the discharge from each regulated process. The industrial discharger shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this paragraph. Instantaneous, daily maximum and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.3, Subsection H. In cases where the pretreatment standard requires compliance with best management practices or pollution prevention alternatives, the industrial discharger shall submit documentation as required by that standard to document compliance with the standard.
  - c. Sampling must be performed in accordance with procedures set out in Section 6.3, Subsection I.
  - d. The District may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
6. A statement reviewed by the industrial discharger's authorized representative and certified by a Professional Engineer registered in the State of Washington, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional

pretreatment is required to meet the pretreatment standards and requirements.

7. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial discharger will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. Where the industrial discharger's categorical pretreatment standard has been modified by a removal allowance (under 40 CFR 403.7), the combined wastestream formula (under 40 CFR 403.6(e)), and/or a fundamentally different factors variance (under 40 CFR 403.13) at the time the industrial discharger submits the report required under Section 6.3, Subsection A of this Resolution, the information required by Paragraphs 6 and 7 of this Subsection shall pertain to the modified limits. If the categorical pretreatment standard is modified by a removal allowance, the combined wastestream formula, and/or a fundamentally different factors variance after the industrial discharger submits the report required under Section 6.3, Subsection A of this Resolution, any necessary amendments to the information requested by Paragraphs 6 and 7 of this Subsection shall be submitted by the industrial discharger to the District Manager within sixty (60) days after the modified limit is approved.

The following conditions shall apply to the schedule required by this part:

- a. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the installation and operation of additional pretreatment facilities required for the discharger to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing installation, beginning and conducting routine operation). No progress increment referred to above shall exceed nine (9) months.
  - b. The industrial discharger shall submit a progress report to the District Manager no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not the discharger complied with the increment of progress, the reason for any delay, (and, if appropriate) the steps being taken by the industrial discharger to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the District Manager.
8. All baseline monitoring reports must be signed and certified in accordance with Section 6.3, Subsection K of this Resolution.
- B. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards (deadline date for categorical dischargers published in the appropriate categorical pretreatment standards, compliance date for non-

categorical dischargers established by the District), or in the case of a new source (new discharger) within thirty (30) days of commencement of the introduction of wastewater into the POTW, any industrial discharger subject to such pretreatment standards and requirements shall submit to the District Manager a report containing the information described in Section 6.3, Subsection A, Paragraphs 4 through 6 of this Resolution. For industrial dischargers which may be subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the industrial discharger's long term wastewater discharge rate. For all other industrial dischargers subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial discharger's actual wastewater discharge rate during the appropriate corresponding sampling period. All compliance reports must be signed and certified in accordance with Section 6.3, Subsection K of this Resolution.

- C. Any significant industrial discharger subject to a pretreatment standard shall, at a frequency determined by the District Manager but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 6.3, Subsection K of this Resolution.
1. The report shall include a record of the concentrations (and mass if specified by the District) of the limited pollutants that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations, and shall also include any additional information required by this Resolution or regulations promulgated thereunder. Production data shall be reported if required by the District. Both daily maximum and average concentration (or mass, where required) shall be reported. In cases where the pretreatment standard requires compliance with best management practices or pollution prevention alternatives, the industrial discharger shall submit documentation as required by that standard to document compliance with the standard. If a discharger sampled more frequently than required by the District, it must submit all results of sampling and analysis of the discharge during the reporting period.
  2. Any industrial discharger subject to equivalent mass or concentration limits established by the District in accordance with procedures provided in 40 CFR 403.6(c) shall submit as part of its report a reasonable measure of the discharger's long term production rate.
  3. If the District calculated limits to factor out dilution flows or non-regulated flows, the industrial discharger shall be responsible for providing flows from the regulated process flows, dilution flows and non-regulated flows.

4. The report shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of the normal work cycles and expected pollutant discharges to the POTW.
  5. Flows shall be reported on the basis of actual measurement; provided, however, that the District may accept reports of average and maximum flows estimated by verifiable techniques if the District determines that an actual measurement is not feasible.
  6. Sampling shall be representative of the industrial discharger's actual discharge and collected in accordance with Section 6.3, Subsection I of this Resolution. Wastewater monitoring and flow management facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial discharger to keep its monitoring facility in good working order shall not be grounds for the industrial discharger to claim that sample results are unrepresentative of its discharge.
  7. Where the industrial discharger conducts self-monitoring, the frequency of monitoring shall be prescribed by the District. At a minimum, such dischargers shall sample their discharge twice per year.
- D. Any industrial discharger subject to this Resolution shall report to the District Manager, in person or by phone, ninety (90) days prior to any changes in its operations or processes which significantly affect its wastewater constituents or characteristics, or storage of chemicals, and which take place after the last report, permit application or environmental survey. These changes include, but are not limited to, flow increases of twenty (20) percent or greater, the commencement of discharge of any prohibited or limited substance under Section 4.1, Subsection B of this Resolution, and the addition of any process covered by national categorical pretreatment standards. Formal written notification shall be made to the District Manager at least ten (10) days prior to such change.
- E. Any discharger operating under equivalent mass or concentration limits shall notify the District Manager within two (2) business days after the discharger has a reasonable basis to know that the production level will significantly change within the next calendar month. Any discharger not notifying the District Manager of such an anticipated change shall be required to comply with the existing limits.
- F. All significant industrial dischargers not subject to categorical pretreatment standards and, as deemed necessary by the District Manager, any minor industrial dischargers shall provide to the District Manager the same reports as set forth in Section 6.3, Subsection A of this Resolution.
- G. If sampling performed by an industrial discharger indicates a violation, the industrial

discharger must notify the District Manager within twenty-four (24) hours of becoming aware of the violation. The industrial discharger shall also repeat the sampling and analysis and submit the results of the repeat analysis to the District Manager within thirty (30) days after becoming aware of the violation. Where the District has performed the sampling and analysis in lieu of the industrial discharger, the District must perform the repeat sampling and analysis within thirty (30) days after becoming aware of the violation unless it notifies the industrial discharger of the violation and requires that discharger to perform the repeat sampling and analysis. The industrial discharger is not required to resample if the POTW performs monitoring at the industrial discharger's at least once a month, or if the POTW performs sampling between the industrial discharger's initial sampling and when the industrial discharger receives the results of this sampling.

- H. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and WAC 173-216-125. If 40 CFR part 136 or WAC 173-216-125 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.
- I. Except as indicated below, the industrial discharger must collect wastewater samples using 24-hour flow proportional composite collection techniques. In the event 24-hour flow proportional composite sampling is infeasible, the District Manager may authorize the use of time proportional composite sampling or a minimum of four (4) grab samples where the industrial discharger demonstrates that this will provide a representative sample of the actual effluent being discharged to the POTW. In addition, grab samples may be required to show compliance with instantaneous discharge limits. Samples to be analyzed for fats, oil and grease (FOG), temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic compounds shall be obtained using grab collection techniques.
  - 1. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the District. For dischargers subject to categorical pretreatment standards, if other wastewaters are mixed with the regulated wastewater prior to pretreatment the discharger should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the applicable pretreatment standards.
  - 2. All sample results shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges from the industrial discharger. If a discharger subject to the reporting requirements in and of this section monitors any pollutant more frequently than required by the

District, it must submit the results of this extra sampling and analysis of the discharge as part of its self-monitoring report.

- J. The District Manager may use a wastewater grab sample(s) to determine noncompliance with applicable pretreatment standards.
- K. Any reports required by this Resolution and submitted by the industrial discharger shall be signed by an authorized representative of the discharger. If applicable pretreatment standards or requirements are not being met, the statement also must be signed by an engineer qualified in pretreatment system design. Any person signing the report shall make the following certification:

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

- L. Written reports shall be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of receipt of the report shall govern. The District Manager shall develop and implement procedures to receive and analyze reports and other notices submitted by industrial dischargers.

#### **6.4 Monitoring equipment.**

- A. The District may require a discharger to install and operate, at the discharger's own expense, monitoring equipment to allow inspection, sampling, and flow measurement of all discharges into the sewer system, to assure compliance with this Resolution. The monitoring equipment shall be situated on the discharger's premises, except that if such a location would be impractical or cause undue hardship on the discharger, the District may allow such equipment to be installed in an accessible public street or sidewalk area.
- B. There shall be ample room in or near such monitoring equipment to allow accurate wastewater sampling and preparation of samples for analysis by the discharger and the District. The monitoring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the discharger.
- C. All monitoring equipment shall be installed and maintained in accordance with all applicable standards and specifications. All devices used to measure wastewater flow

and quality shall be calibrated to ensure their accuracy.

## **6.5 Inspection and sampling.**

- A. To assess compliance with this Resolution, independent of any information provided by an industrial discharger, the District shall have the right to inspect, conduct surveillance of, and collect wastewater samples from all monitoring equipment, sewer lines, and plant facilities, and to examine and copy any discharge related records, during all hours that a discharger is operating or whenever employees are on the premises. The District will normally schedule such inspections upon seven (7) days notice, but, if deemed appropriate or necessary, shall have the right to make unscheduled inspections without prior notice. The District shall have the right to erect or install on the discharger's property such devices as are reasonably necessary to conduct sampling, inspection, compliance monitoring or metering operations.
- B. Where an industrial discharger has security measures in force which require proper identification and clearance before entry into its premises, the industrial discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the District, the City, Ecology, and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.
- C. Failure to allow inspection, sampling, monitoring, metering, or copying as authorized by this Section shall be grounds for termination of wastewater treatment services as well as any other enforcement action authorized under this Resolution and deemed appropriate by the District Manager.
- D. If the District Manager has been refused access to a building, structure or property or any part thereof, and if the District Manager has demonstrated probable cause to believe that there may be a violation of this Resolution or that there is a need to inspect as part of a routine inspection program of the District designed to verify compliance with this Resolution or any permit or order issued hereunder, then upon application by the District's counsel, the Yakima County Superior Court will issue a search and/or seizure warrant describing herein the specific location subject to the warrant. The warrant will specify what, if anything, may be searched and/or seized on the property described. Such warrant will be served at reasonable hours by the District Manager in the company of a uniformed police officer of Yakima County. In the event of an emergency affecting public health and safety, inspections will be made without the issuance of a warrant.
- E. The District Manager shall develop and implement procedures to randomly sample and analyze the effluent from industrial users and conduct surveillance activities to better identify, independent of information supplied by industrial dischargers, occasional and continuing noncompliance with applicable pretreatment standards. The District Manager shall inspect (including effluent sampling and analysis) each

significant industrial discharger at least once each year. The District Manager shall investigate instances of noncompliance indicated by information provided by industrial dischargers and by the District Manager's independent inspection, sampling, and analysis.

## **6.6 Confidential information.**

- A. Information and data furnished to the District with respect to the nature and frequency of discharge will be available to the public or other governmental agency without restriction unless the discharger specifically requests and is able to demonstrate that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the discharger under the laws or regulations of the state or federal government. If a discharger furnishing a report requests that information provided as part of a report be kept confidential, and the discharger marks said pages as 'confidential', then the portions so marked of a report or other information which may disclose trade secrets or secret processes protected by state or federal law, will not be made available for inspection by the public, subject to the provisions of Chapter 42.17 RCW, as now or as it may be amended, but will be made available upon written request to governmental agencies for uses related to this Resolution, the City's NPDES permit, state waste discharge permit and/or the pretreatment programs; provided, however, that such portions of a report or other information will be available for use by the state or any state agency in judicial review or enforcement proceedings involving the discharger furnishing the report. Wastewater constituents and characteristics, other "effluent data" as defined by 40 CFR 2.302, and information for which claims of confidentiality must be denied pursuant to WAC 173-216-080 shall not be recognized as confidential information and shall be available to the public without restriction.
- B. Information accepted by the District as confidential will not be transmitted to any governmental agency or to the general public by the District until and unless a ten-day notification is given to the discharger. Once notice of intent to release information has been given to the discharger, if the discharger fails to contest the release, then any rights created by this section shall be deemed to have been waived.

## **Part 7 - Waste Discharge Permits and Authorizations**

### **7.1 Waste Discharge Permit and Authorization Determination.**

- A. All new non-residential dischargers (domestic and nondomestic) shall submit a completed Preliminary Industrial Waste Survey to the District for its review and determination of whether the non-residential discharger will need to contact Ecology to apply for a Waste Discharge Permit before discharging to the POTW or receive authorization from the District to discharge to the POTW without receiving a Waste Discharge Permit. This Preliminary Industrial Waste Survey shall be filed within thirty (30) days of being received by the non-residential discharger, unless the non-

residential discharger requests in writing a thirty-day extension from the District Manager and the District Manager approves the request in writing. The Preliminary Industrial Waste Survey shall be signed by an authorized representative of the non-residential discharger and in the form prescribed by the District. The District Manager may require either additional information or a follow up Industrial Waste Survey (IWS), as described in Section 7.2B. Should the District Manager approve the IWS, it shall satisfy Section 7.2B.1 for purposes of applying for a Waste Discharge Permit from Ecology, if applicable. Existing non-residential dischargers shall submit a Preliminary IWS when requested to do so by the District (see Section 6.2B).

1. Ecology Waste Discharge Permit Required. Should the District Manager determine that a Waste Discharge Permit is required, the discharger shall contact Ecology and follow Ecology's requirements for obtaining a Waste Discharge Permit.
2. District Authorization Required. Should the District Manager determine that a Waste Discharge Permit is not required, the District Manager shall determine which of the terms and conditions of this Resolution apply prior to granting authorization to discharge to the POTW. All non-residential dischargers receiving authorization to discharge to the POTW shall comply with Section 7.2.

Nothing in this Resolution shall relieve any discharger to the POTW from the requirement to apply all known, available, and reasonable methods to prevent and control waste discharges to the waters of the state, or the requirement to obtain approval of plans and reports for the construction of wastewater facilities, or any other applicable requirement contained in this Resolution or state or federal law. Nothing herein shall limit the authority of the District to take enforcement action for any unlawful discharge of waste materials or other violations of this Resolution.

## **7.2 District Authorization Required.**

- A. The District Manager may authorize long term, short term or temporary wastewater discharges into the POTW. All authorized wastewater discharges shall comply with pretreatment standards and regulations (Section 4.1), limitations on wastewater strength (Section 4.2), and protect the POTW from slug load or accidental discharges (Section 4.3). Failure to comply shall subject the discharger to the enforcement provisions of Part 8 of this Resolution and all industrial dischargers located outside of the District's boundaries that receive authorization to discharge from the District shall accept the District's authority to impose those enforcement provisions as a condition to discharging wastewater into the POTW. The District Manager may condition the authorization as necessary to comply with the provisions of this Resolution, and may deny requests under Part 7 on the grounds that the discharge would violate any provision of this Resolution.

B. Discharge Authorization procedure.

1. Non-residential dischargers shall submit a completed Industrial Waste Survey (IWS) to the District Manager. The survey shall include a complete written description of the proposed project, including the reason for the discharge, rate and duration of the discharge, a site map and plumbing plan showing the location and method to discharge the wastewater, a legal description of the property, and the name and phone number of a contact person. The survey shall also contain an analysis of the water to be discharged and the volume of wastewater discharged.
2. The survey shall be signed by an authorized representative of the discharger.
3. The District Manager will review the survey for completeness and, within thirty (30) days, may return to the applicant any incomplete survey with a request for information necessary to complete the survey. Any survey not so returned shall be deemed complete. If returned, the survey shall not be considered complete unless and until the discharger resubmits the survey with the requested information.
4. Further information or applications may be requested from the discharger by the District Manager to help determine the status of the discharger or to assist in setting the terms and conditions of the authorization.
5. District authorization to discharge to the POTW shall include conditions as are deemed reasonably necessary by the District Manager to prevent pass through or interference, protect the quality of POTW's receiving water body, protect worker health and safety, facilitate biosolids management and beneficial reuse, and protect against damage to the POTW. The District Manager may include any requirements of this Resolution to achieve these goals.
6. Notification of a change in the volume or constituents of any authorized discharge shall be made thirty (30) days in advance of the change to provide the District Manager time to consider if a new authorization will be required (see Section 6.3D).

**7.3 Ecology Waste Discharge Permit Required.**

- A. No significant industrial discharger (existing or new) shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from Ecology. Any violation of the terms or conditions of a wastewater discharge permit shall be deemed a violation of this Resolution. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all applicable federal and state standards or with any other applicable requirement of this Resolution or federal or state law.

A significant industrial discharger whose permit has expired and who failed to submit its reapplication in the time period specified by Ecology will be deemed to be in violation of this Resolution. Any existing significant industrial discharger that does not possess a current, valid Waste Discharge Permit issued by Ecology and that intends to continue such discharge, shall immediately submit a complete permit application to Ecology in accordance with this Resolution.

- B. At least one hundred and twenty (120) days prior to the anticipated start-up, any new source which shall become a significant industrial discharger shall submit a complete permit application to Ecology in accordance with this Resolution. Such new source shall not discharge wastewater to the POTW without first receiving a Waste Discharge Permit from Ecology.
- C. The District Manager may require any other discharger to obtain a Waste Discharge Permit as necessary to carry out the purposes of this Resolution.
- D. The following discharges are not subject to Ecology Waste Discharge Permits under this Part 7:
  - 1. Discharges of domestic wastes from industrial, commercial, or residential structures; provided that such discharges do not have the potential to cause interferences or result in pass through to the POTW.
  - 2. Discharges of wastes from commercial or industrial sources whose wastewater is similar in strength to normal domestic wastewater; provided that such discharges do not have the potential to cause interferences or result in pass through to the POTW.

These exemptions shall not relieve any discharger from the requirement to apply all known, available, and reasonable methods to prevent and control waste discharges to the waters of the state, or the requirement to obtain approval of plans and reports for the construction of wastewater facilities, or any other applicable requirement contained in this Resolution or state or federal law. Nothing herein shall limit the authority of the District to take enforcement action for any unlawful discharge of waste materials or other violations of this Resolution.

## **Part 8 - Administrative Enforcement**

### **8.1 Notification of violation.**

Whenever the District Manager finds that any discharger has violated or is violating this Resolution, or an order issued hereunder, the District Manager may serve upon said discharger written notice of the violation. Within ten (10) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the District

Manager. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this Section shall limit the authority of the District to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

## **8.2 Consent orders.**

- A. The District Manager is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the discharger responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Such schedules may not extend the compliance date beyond applicable federal deadlines. Consent orders shall have the same force and effect as compliance orders issued pursuant to Section 8.3 of this Resolution and shall be judicially enforceable.
- B. Failure to comply with any terms or requirements of a consent order by the discharger shall be an additional and independent basis for termination of wastewater treatment services or for any other enforcement action authorized under this Resolution and deemed appropriate by the District Manager.

## **8.3 Compliance orders.**

- A. When the District Manager finds that a discharger has violated or continues to violate this Resolution or any order issued hereunder, he may issue a compliance order to the discharger responsible for the violation directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated and maintained. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. In establishing the compliance schedule in the compliance order, the District Manager will consider applying to the schedule the conditions provided in Section 6.3, Subsection A, Paragraph 7 of this Resolution. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the discharger of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the discharger.
- B. Failure to comply with any terms or requirements of a compliance order by the discharger shall be an additional and independent basis for termination of wastewater treatment services or for any other enforcement action authorized under this Resolution and deemed appropriate by the District Manager.

#### **8.4 Cease and desist orders.**

When the District Manager finds that a discharger has violated or continues to violate this Resolution or any order issued hereunder, the District Manager may issue an order to cease and desist all such violations and direct those persons in noncompliance to: (1) comply forthwith; and (2) take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the wastewater discharge. Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the discharger.

#### **8.5 Administrative fines.**

Notwithstanding any other Section of this Resolution, any discharger who is found by the District Manager, to have violated any provision of this Resolution, or orders issued hereunder, shall be fined in the amount not to exceed one thousand dollars (\$1,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the discharger's next scheduled sewer-service charge and the District Manager shall have such other collection remedies as he has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual discharger's property. Issuance of an administrative fine shall not be a prerequisite for taking any other action against the discharger.

#### **8.6 Recovery of costs incurred by the District.**

Any discharger violating any of the provisions of this Resolution who discharges or causes a discharge producing a deposit or obstruction or causes damage to or impairs the City's POTW shall be liable to the District for any reasonable expense, loss, fines, or damage caused by such violation or discharge. The District will bill the discharger for the cost incurred by the District for any cleaning, repair, replacement work, or other damages caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this Resolution enforceable under the provisions of Parts 8 and 9 of this Resolution.

#### **8.7 Emergency suspension of treatment services.**

- A. The District Manager may order the suspension of wastewater treatment service after informal notice to the discharger if it appears to the District that an actual or potential discharge: (1) presents or threatens a substantial danger to the health or welfare of persons or to the environment; or, (2) threatens to interfere with the operation of the POTW or to violate any pretreatment limits imposed by this Resolution.
- B. Any discharger notified of a suspension of the wastewater treatment service shall cease immediately all wastewater discharges. In the event of a discharger's failure to comply immediately and voluntarily with the suspension order, the District Manager

will take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage, including but not limited to, the POTW, its biosolids or receiving waters, or endangerment to the health and welfare of any individuals. The District shall have the right of access onto the discharger's private property to accomplish such severance of the sewer line. The District Manager will allow the discharger to recommence its wastewater discharge when the endangerment has passed, unless the termination proceedings set forth in Section 8.8 of this Resolution are initiated against the discharger.

- C. It shall be unlawful for any person to prevent or attempt to prevent the District from terminating wastewater treatment service in an emergency situation, by barring entry, by physically interfering with District employees or contractors, or by any other means.
- D. Any discharger whose wastewater treatment service has been suspended pursuant to this Section shall have the right to a post-suspension hearing to be conducted in accordance with the procedures set forth in Section 8.9 of this Resolution. A discharger which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the District Manager prior to the date of the post-suspension hearing.

#### **8.8 Termination of treatment services.**

- A. The District Manager shall have authority to terminate wastewater treatment services for any discharger if it determines that the discharger has:
  - 1. Failed to accurately report wastewater constituents and characteristics;
  - 2. Failed to report significant changes in operations or wastewater constituents or characteristics;
  - 3. Refused reasonable access to the discharger's premises for purposes of inspection, monitoring, or sampling;
  - 4. Violated any condition of the discharger's waste discharge permit;
  - 5. Violated any of the provisions of this Resolution; or
  - 6. Violated any lawful order of the District issued with respect to this Resolution.

In the event any discharger declines to allow access to the discharger's premises for inspection, monitoring, or sampling, the District Manager shall not enter such premises without first obtaining a duly issued judicial warrant.

- B. The discharger shall be given written notice of the District's decision (and basis or bases therefore) to terminate wastewater services and shall have the right to a pre-termination hearing in accordance with the provisions of Section 8.9 of this Resolution.

## **8.9 Administrative hearing.**

- A. A discharger shall have the right to an administrative hearing to contest the District's determination: (1) to suspend the discharger's wastewater services; (2) to terminate the discharger's wastewater services; (3) to impose administrative fines against the discharger; (4) to bill the discharger for costs incurred by the District as a result of the discharger's violation or discharge; or (5) that the discharger has violated a consent, compliance, or cease and desist order.
- B. Any hearing pursuant to this Section must be requested by the discharger in writing within fifteen (15) days after the discharger receives notice of the District's determination. The discharger's written request for hearing shall be filed with the District Manager. Failure to submit a timely notice shall be deemed to be a failure to exhaust administrative remedies and shall preclude any further review. The District will conduct the hearing within twenty (20) days of the receipt of the request (or within five (5) days if the discharger is contesting suspension or termination of wastewater services).
- C. The administrative hearing authorized by this Section will be held before the Chairman of the Board of Commissioners of the District or the Chairman's designee. Formal rules of evidence will not apply but the discharger and the District shall have the right to present witnesses and documentary evidence. The Chairman of the Board of Commissioners of the District or the Chairman's designee will issue a written decision within ten (10) days of the conclusion of the hearing.
- D. Any discharger requesting a hearing shall have the right to make an electronic or stenographic record of the proceedings. Such record shall be made at the discharger's expense.
- E. Except as otherwise provided, all decisions by the Chairman of the Board of Commissioners of the District or the Chairman's designee shall be final and conclusive on all parties unless appealed to the Board of Commissioners of the District under Section 8.10 of this Resolution.

## **8.10 Appeal to the Board of Commissioners of the District.**

- A. Any decision of the Chairman of the Board of Commissioners of the District or the Chairman's designee rendered pursuant to Section 8.9 of this Resolution may be reviewed by appeal to the Board of Commissioners of the District. The discharger must file written notice of appeal with the Secretary of the Board of Commissioners of the District within fifteen (15) days following notification of such decision or action. Such notice of appeal shall be set forth in reasonable detail the action or decision appealed and the discharger's grounds for reversal or modification thereof. Failure to submit a timely notice shall be deemed to be a failure to exhaust administrative remedies and shall preclude any further review.

- B. Following receipt of such notice, the Secretary of the Board of Commissioners of the District will schedule a date for a public meeting by the Board of Commissioners of the District at which time the Board of Commissioners of the District shall consider the appeal. The date of the public meeting should be not later than twenty (20) days following the date the Secretary of the Board of Commissioners of the District receives notice of the appeal. The Secretary of the Board of Commissioners of the District will mail written notice to all parties of record to apprise them of the meeting date before the Board of Commissioners of the District.
- C. The Board of Commissioners of the District's review of the facts shall not be limited to evidence presented to the Chairman of the Board of Commissioners of the District or the Chairman's designee. The Board of Commissioners of the District may request additional information or memoranda in order to reach a decision, provided that all parties of record are given an opportunity to respond to the material provided.
- D. At the public meeting, the Board of Commissioners of the District may adopt, amend and adopt, reverse, amend and reverse the findings, conclusions, and decision of the Chairman of the Board of Commissioners of the District or the Chairman's designee or remand the matter to the Chairman of the Board of Commissioners of the District or the Chairman's designee.

#### **8.11 Judicial Review.**

The decision of the Board of Commissioners of the District on an appeal of the decision of the Chairman of the Board of Commissioners of the District or the Chairman's designee shall be final and conclusive unless within twenty (20) days from the date of final action, the discharger files a petition for review with the Yakima County Superior Court in the manner prescribed by law.

#### **8.12 Publication of enforcement actions.**

- A. A list of all dischargers that experience a significant violation of applicable pretreatment standards or other pretreatment requirements during the previous twelve (12) months shall be published, at least annually, by the District in the largest local daily newspaper of general circulation. For the purposes of this provision, a violation is a significant violation which meets one (1) or more of the following criteria:
  - 1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all of the wastewater measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l) for the same pollutant parameter;
  - 2. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the wastewater measurements for each

pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils, and grease, and 1.2 for all other pollutants except pH);

3. Any other discharge violation of a pretreatment standard or requirement, as defined by 40 CFR 303.3(l) (daily maximum, longer-term average, instantaneous limit or narrative standard that the District determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the District's exercise of its emergency authority under Section 8.7 of this Resolution to halt or prevent such a discharge;
5. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance;
8. Failure to maintain records of pretreatment facility maintenance, including, but not limited to, cleaning and waste removal dates, and means of disposal of accumulated wastes; or
9. Any other violation or group of violations which causes the District to expend considerable time or expense in tracking down the source of pollutants detected in the POTW wastewater influent, or which the District determines will adversely affect the operation or implementation of its pretreatment program.

#### **8.13 Performance bonds and liability insurance.**

The District Manager may decline to reinstate wastewater treatment services for any discharger who has had its services suspended or terminated under the provisions of this Resolution unless such discharger, at the discretion of the District Manager, either: (1) first files with the District Manager a satisfactory bond, payable to the District, in a sum not to exceed a value determined by the District Manager to be necessary to achieve consistent compliance; or (2) first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

#### **8.14 Operating upsets.**

- A. Any discharger that experiences an upset shall inform the District Manager of the upset within twenty-four (24) hours of discovering the upset. Where such information is given orally, a written report describing the upset shall be filed with the District Manager by the discharger within five (5) days after the discovery. This report shall be based on properly signed, contemporaneous operating logs or other relevant evidence and shall include:
1. A description of the upset, the cause of the upset and the impact of the upset on the discharger's compliance with this Resolution.
  2. The duration of noncompliance (including exact dates and times) and, if noncompliance is continuing, the time by which the discharger expects to be in compliance.
  3. All steps which have been taken or will be taken to prevent the recurrence of the upset.
  4. Evidence that the facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.
- B. A timely documented and properly verified operating upset shall be an affirmative defense to any enforcement action brought by the District against the discharger for failure to comply with this Resolution to the extent that the enforcement action arises out of violations which occurred during the period of upset. Provided, however, that such an upset shall not relieve the discharger of any other liability for the upset including, but not limited to, liability for damages sustained by the POTW, the District, or third persons. In any enforcement proceeding, the discharger seeking to establish the occurrence of an upset shall have the burden of proof.

#### **8.15 General/Specific prohibitions.**

A discharger shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibition against interference and pass through found in Section 4.1, Subsection B of this Resolution, or with the specific prohibitions found in Section 4.1, Subsection B, Paragraphs 2, 7, 8, 10, and 13 of this Resolution, if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (A) a local limit exists under Section 4.2, Subsection E of this Resolution for each pollutant discharged and the discharger was in compliance with each limit directly prior to, and during, the pass through or interference, or (B) no local limit exists under Section 4.2, Subsection E of this Resolution, but the discharge did not change substantially in nature or constituents from the discharger's prior discharge when the

District was regularly in compliance with the City's NPDES permit requirements, and in the case of interference, was in compliance with applicable biosolids use or disposal requirements.

#### **8.16 Bypass.**

- A. A discharger may allow any bypass to occur which does not cause the pretreatment standards or requirements of Sections 4.1 and 4.2 of this Resolution to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of Subsections B and C of this Section.
- B. If a discharger knows in advance of the need for a bypass, it shall submit prior notice to the District Manager at least ten (10) days before the date of the bypass, if possible. A discharger shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the District Manager within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial discharger becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The District Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- C. Bypass is prohibited, and the District may take enforcement action against a discharger for a bypass, unless:
  - 1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - 2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - 3. The discharger submitted notices as required under Subsection B of this Section.
- D. The District Manager may approve an anticipated bypass, after considering its adverse effects, if the District Manager determines that it will meet the three (3) conditions listed in this Subsection.

### **8.17 Records retention.**

All dischargers subject to this Resolution shall retain and preserve for no less than five (5) years any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or on behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of an enforcement action or litigation shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired, but in no case less than five (5) years.

## **Part 9 - Judicial Enforcement**

### **9.1 Judicial remedies.**

If any person discharges sewage, industrial wastes, or other wastes into the District's POTW contrary to the provisions of this Resolution or any order issued hereunder, the District Manager, through counsel or the County Prosecuting Attorney, may commence an action for appropriate legal and/or equitable relief in the court having jurisdiction over the matter (the City of Yakima municipal court or the Yakima County superior court). Such judicial action may be in lieu of or in addition to any other administrative enforcement action authorized herein.

### **9.2 Injunctive relief.**

Whenever a discharger has violated or continues to violate the provisions of this Resolution or order issued hereunder, the District Manager, through counsel, may petition the court having jurisdiction over the matter (the City of Yakima municipal court or the Yakima County superior court) for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the discharger. The District Manager shall have such remedies to collect fees associated with legal costs as it has to collect other sewer service charges. Such other action as appropriate for legal and/or equitable relief may also be sought by the District. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a discharger.

### **9.3 Civil penalties.**

- A. Any discharger who has violated or continues to violate an order of the District, or who fails to comply with: (a) any provision of this Resolution, or (b) any rule or order of the District, issued pursuant to this Resolution, shall be liable to the District for a civil penalty. The amount of such civil penalty shall be at least one thousand dollars (\$1,000.00) per violation but not more than ten thousand dollars (\$10,000.00) per violation, plus actual damages incurred by the POTW. Each day upon which a violation occurs or continues shall constitute a separate violation. Unpaid civil

penalties shall constitute a lien against the individual discharger's property. In addition to the above described penalty and damages, the District Manager may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses. A discharger's failure to pay such civil penalties shall be grounds for termination of wastewater services.

- B. The District Manager will petition the Court to impose, assess, and recover such civil penalties. In determining the amount of liability, the Court will take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the discharger's violation, corrective actions by the discharger, the compliance history of the discharger, and any other factor as justice requires.
- C. Filing a suit for civil liabilities shall not be a prerequisite for taking any other action against a discharger.

#### **9.4 Falsifying information.**

Any person who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this Resolution, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Resolution (in addition to civil and/or criminal penalties otherwise provided by law) shall be in violation of RCW 57.08.180, and, upon conviction, be punishable by a fine of not more than one thousand dollars (\$1,000.00) per violation per day plus costs of prosecution or imprisonment not to exceed ninety (90) days or both.

#### **9.5 Criminal penalties.**

Any person who willfully, knowingly, recklessly or negligently violates any provision of this Resolution through any act or omission shall be in violation of RCW 57.08.180, and, upon conviction, be punishable by a fine of not more than ten thousand dollars (\$10,000.00) per violation per day plus costs of prosecution or imprisonment in the county jail not to exceed one (1) year, or by fine, restitution and imprisonment, at the discretion of the court.

#### **9.6 Remedies nonexclusive.**

The provisions in Parts 8 and 9 of this Resolution are not exclusive remedies. The District reserves the right to take any, all, or any combination of these actions against a noncompliant discharger.

## **Part 10 - Additional Provisions**

### **10.1 Septage and liquid waste hauling requirements.**

- A. It is unlawful for any person, firm or corporation to discharge any trucked or hauled waste including, but not limited to, septage from private wastewater disposal systems at any location within the District.
- B. Failure to comply with the terms of this Section shall subject the person, firm or corporation responsible for the failure to the penalties specified in Part 8 of this Resolution.

### **10.2 Regulations.**

The District Manager will have the authority to promulgate written regulations consistent with this Resolution.

### **10.3 Severability.**

The provisions of this Resolution are severable, and if any provision of this Resolution, or the application of any provision of this Resolution to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this Resolution shall not be affected thereby.

ADOPTED at a regular meeting of the Board of Commissioners of the Terrace Heights Sewer District this 15th day of February, 2011

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Robert Linker  
Chairman and Commissioner

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Martin Borello  
Commissioner

Attest:

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Frank Sliger  
Secretary and Commissioner

# **SEWER USE ORDINANCE**

**CITY OF MOXEE**

## **CITY OF MOXEE, WASHINGTON**

### **ORDINANCE NO. 702**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MOXEE, WASHINGTON AMENDING SECTIONS 4.1 AND 4.2 OF ORDINANCE #673 REVISING THE CITY'S PRETREATMENT STANDARDS AND REQUIREMENTS TO PREVENT PASS-THROUGH OR INTERFERENCE WITH THE PUBLICLY OWNED TREATMENT WORKS (POTW) AND TO PROTECT THE RECEIVING WATERS OF THE STATE, AND REPEALING ORDINANCE #697 IN ITS ENTIRETY**

WHEREAS, the City of Moxee entered into a Special Agreement with Terrace Heights Sewer District, City of Yakima, Union Gap, and Yakima County; and

WHEREAS, Moxee is required to adopt a Sewer Use Ordinance that is at least as stringent as those adopted by the City of Yakima; and

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Moxee, Washington as follows;

#### **SECTION 1: SECTION 4.1 OF ORDINANCE #673 IS AMENDED TO READ AS FOLLOWS:**

##### **4.1 PRETREATMENT STANDARDS AND REQUIREMENTS**

No person shall discharge or cause to be discharged any polluted waters such as stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage. Condensate, deionized water or noncontact cooling water and unpolluted industrial wastewater to any sewer or natural outlet, unless approved by the City of Moxee and other regulatory agencies whose approval is required.

No person shall discharge or cause to be discharged to POTW, directly or indirectly, any pollutant or wastewater which shall discharge or cause to be discharged to the POTW, directly or indirectly, any of the following described substances unless prior written approval has been obtained from the City of Moxee.

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 to be injurious in any other way to the operation of the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit or sixty(60) degrees Centigrade using the test methods specified in 40 CFR 261.21. At no time shall two (2) successive readings on a combustible gas meter, at the point of discharge into the system(or at any point in the system), be over five (5) percent, nor any single reading over ten (10) percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, fuel oil, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hybrids, and any other substances which are a fire hazard or hazards to the POTW.

Solid or viscous substances in quantities or such size that they will or may cause reduction of the effective cross-sectional a sewer area, obstruction to the flow in a sewer, or other interference with the operation of the POTW. In no case may solids greater than one-fourth inch in any demension be discharged to POTW.

Any wastewater having a pH less than 5.5 or higher than 12.0 or having any other corrosive property capable of causing damage to hazard to structures, equipment, or personnel of the system.

Any wastewater having BOD of more than three hundred (300) mg/L.

Any wastewater having a suspended solids content of more than three hundred (300) mg/L.

Any wastewater having a chlorine demand of more than twenty (20) mg/L.

Any wastewater having an animal /vegetable (polar) based floatable oil, fat waste, oil or grease (whether or not emulsified), hexane or ether-soluble matter content in excess of one hundred (100) mg/L; or a mineral/petroleum (non polar) based oil or grease (whether or not emulsified), hexane or ether-soluble matter content in excess of one hundred (100) mg/L; or any petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through; or any substance which may solidify or become discernibly viscous at temperatures above zero degrees Centigrade (0 degree C) (32 degrees F).

Any wastewater containing pollutants in sufficient quantity or concentration, either singly or by interaction, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or to exceed the limitation set forth in categorical pretreatment standards, or state or local standards.

Any pollutants which result in the presence of toxic, noxious or malodorous liquids, gases, vapors, fumes. Or solids within the POTW in a quantity that which either singly or by interaction are capable of creating a public nuisance or hazard to life or causing acute worker health and safety problems, or are sufficient to prevent entry into the sewers for their maintenance and repair.

Any substance which may cause the POTW's effluent or treatment residues, biosolids or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance be discharged to the POTW that, either alone or in combination with other discharges, will cause the POTW to be in noncompliance with biosolids use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; or with any criteria, guidelines or regulations affecting biosolids use or disposal developed pursuant to the Solid Waste Disposal Act, 42 U.S.C. 6901 et seq.; as now or as it may be amended, the Clean Air Act, 42 U.S.C. 6901 et seq., as now or as it may be amended the Clean Air Act, 42 U.S.C. 7401 et seq., as now or as it may be amended, the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 et seq., as now or as it may be amended, or similar state statutes or regulations applicable to the biosolids management method being used.

Any substance which will cause the POTW to violate the City's NPDES and/or other disposal system permits.

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 plant's effluent thereby violating the City's NPDES permit. Color, alone or in combination with turbidity, shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than (10) percent from the seasonably established norm for aquatic life.

Any slugload, which shall mean any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a single in extraordinary discharge episode of such volume or strength as to cause a violation of this Ordinance, including, but not limited to, the following: interference to the POTW, or flowrate exceeding the permitted peak flow, or ten (10) percent of the capacity of the available trunk sewer, whichever is greater.

Any biosolids, screenings, or other residues from the pretreatment of industrial wastewater discharges

Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as exceed limits established by the City in compliance with applicable state or federal regulations.

Any wastewater which causes a hazard to human life or creates a public nuisance.

Any medical wastes.

Any wastewater causing the treatment plant's effluent to fail a toxicity test.

Any wastes containing detergents, surface active agents, or other substances in such concentrations that they may cause excessive foaming in the POTW.

Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA), 7 U.S.C. 136et seq., as now or as it may be amended.

No discharger shall discharge or cause to be charged to the POTW, directly or indirectly, any of the following described substances unless discharged pursuant to a valid wastewater discharge permit or authorization from the Wastewater Manager:

Any wastewater with a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference; but in no case, wastewater with a temperature at the introduction into the POTW which exceeds forty degrees Centigrade (40 degrees C) (104 degrees F).

Any trucked or hauled pollutants except pursuant to YMC.7.65.420

Any dangerous wastes as defined in Chapter 173-303 of the Washington Administrative Code (WAC), as now or as it may be amended.

Flows which have the potential to adversely affect the hydraulic loading of the POTW, including the following categories:

- Non-contact cooling water;
- Stormwater and other direct inflow sources; and
- Non-polluted water or water which would not receive significant treatment.

Waste prohibited by this Ordinance shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial discharger's pretreatment facility prior to discharging to the POTW.

The general and specific prohibitions provided by this Ordinance to all dischargers to the POTW whether or not the discharger is subject to categorical pretreatment standards or requirements.

**SECTION 2: SECTION 4.2 OF ORDINANCE #673 IS AMENDED TO READ AS FOLLOWS:**

**4.2 LIMITATIONS ON WASTEWATER STRENGTH**

National categorical pretreatment standards as adopted and hereafter amended or modified by the U.S. Environmental Protection Agency (EPA) pursuant to the Act shall be met by all dischargers of the regulated industrial categories. The national categorical standards found at 40 CFR Chapter 1, Subchapter N, Parts 405 through 471 are hereby incorporated.

State requirements and limitations on discharges to the POTW shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this Ordinance or any other applicable Ordinance.

The City may, from time to time, amend this Ordinance to provide for more stringent limitations or requirements on discharges to the POTW if such amendments are deemed necessary to comply with the objectives set forth in Section 1.1 of Ordinance 673, or are otherwise in the public interest.

No discharger shall dilute its wastestream with potable or process water in any way, nor mix separate waste streams for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth this Ordinance.

No discharger shall discharge industrial wastewater containing concentrations (and/or mass limitations) that exceed any of the following local discharge limits unless prior written approval has been obtained from the City of Moxee:

Pollutant	Daily Maximum Concentration (mg/L)
Arsenic(As)	0.48
Cadmium(Cd)	0.049
Chloroform	0.67
Chromium (Cr)	5.0
Chromium (VI)	0.43
Copper (Cu)	0.30
Lead (Pb)	0.19
Mercury (Hg)	0.002
Molybdenum(Mo)	1.14
Nickel (Ni)	2.0
Selenium	0.419
Silver (Ag)	0.06
Sulfide (liquid phase)	0.5
Zinc (Zn)	4.2
Beta-BHC	0.01516
Endosulfan	0.06964
Endrin	0.00383
Alpha-chlordane	0.00716
Gamma-Chlordane	0.00367
Chlorpyrifos	0.01298
Lindane	0.13324
Benzene	0.05 <sup>(3)</sup>
BTEX <sup>(2)</sup>	0.75 <sup>(3)</sup>

(1) All Pollutants are analyzed and reported as total mg/L.

(2) BTEX is the sum of the measured concentration of Benzene, Toluene, Toluene, Ethylbenzene And Xylene.

(3) These pollutants are based upon treatment technology (air Stripping/carbon capture) and are developed for discharges from groundwater cleanup or remediation activities or other effluents containing Benzene and/or BTEX and requiring the installation of treatment.

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. An Industrial user, through enforcement action and/or permit compliance schedule, may be required to install treatment or otherwise reduce or halt a discharge of a pollutant to maintain compliance with Pretreatment Standards and Requirements and prevent interference with the operation of the POTW, pass through and adverse effects on the quality of the receiving waters, contamination of municipal biosolids, health and safety hazards to workers in the POTW, or violations of applicable federal or state regulations.

The City may impose mass limitations on discharges in cases where necessary to be consistent with federal categorical pretreatment standards. Where a discharger is subject to a Categorical Pretreatment Standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply. The City may establish more stringent pollutant limits, mass-based limits, additional

site-specified pollutant limits, Best Management Practices, or additional PreTreatment Requirements when, in the judgement of the City, such limitations are necessary to implement the provisions of this chapter.

In the event of these any of these values are exceeded by one or more dischargers the City will require the individual discharger(s) exceeding the local discharge limits to pretreat their wastewater to an extent necessary to prevent interference with the operation of the POTW, pass through and adverse effects on the receiving waters, contamination of municipal biosolids, health and safety hazards to workers in the POTW, or violations of applicable federal or state regulations.

The City may impose mass limitations on discharges in cases where necessary to be consistent with federal categorical pretreatment standards, or under circumstances where concentration limits are impractical to apply. Where a discharger is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply.

The City reserves the right to establish, by Ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

All known, available, and reasonable methods of pretreatment, in accordance with RCW 90.48.010 and WAC 173-216-020(1), shall be used by a discharger to bring into compliance a wastewater discharge that does not comply with standards set forth in the Ordinance.

The City reserves the right to enter into special agreements with industrial dischargers setting out special terms under which they may discharge wastewater to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial discharger may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance in accordance with 40 CFR 403.13 from the categorical pretreatment standard from EPA. Such a request will be approved only if the industrial discharger can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. An industrial discharger requesting a fundamentally different factor variance must comply with the procedural and substantive provision in 40 CFR 403.13.

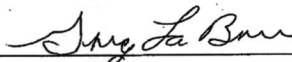
#### **SECTION 3: EFFECTIVE DATE**

This Ordinance shall become effective five (5) days after adoption and publication as required by law.


#### **SECTION 4: REPEALER**

This Ordinance repeals Ordinance 697 in its entirety.


**PASSED AND ADOPTED by the City Council of the City of Moxee, Washington this 14<sup>th</sup> day of April, 2011.**

  
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Greg LaBree  
Mayor

Attest:

  
\_\_\_\_\_  
Kristi Heilman  
City Clerk Treasurer

Approve as to form:

  
\_\_\_\_\_  
Robert Noe, City Attorney