# CITY OF CANBY
# SEWER USE ORDINANCE
# 1413

Industrial Pretreatment Program
Wastewater Treatment
Canby, Oregon
April 1, 2015

# CONTENTS

## CITY OF CANBY ORDINANCE 1413


| SECTION I GENERAL PROVISIONS | | PAGE |
|---|---|---|
| 1.1 | Purpose and Policy | 4 |
| 1.2 | Administration | 5 |
| 1.3 | Definitions | 5 |
| 1.4 | Abbreviations | 14 |
| **SECTION 2 GENERAL SEWER USE REQUIREMENTS** | | |
| 2.1 | Prohibited Discharge Standards | 15 |
| 2.2 | Federal Categorical Pretreatment Standards | 17 |
| 2.3 | State Requirements | 18 |
| 2.4 | "Local Limits" Specific Pollutant Limitations | 18 |
| 2.5 | City's Right to Revision | 18 |
| 2.6 | Special Agreement | 18 |
| 2.7 | Dilution | 19 |
| 2.8 | Deadline for Compliance with Categorical Standards | 19 |
| 2.9 | Inflow and Infiltration | 19 |
| **SECTION 3 PRETREATMENT OF WASTEWATER** | | |
| 3.1 | Pretreatment Facilities | 21 |
| 3.2 | Additional Pretreatment Measures | 21 |
| 3.3 | Spill Prevention | 22 |
| 3.4 | Tenant Responsibility | 24 |
| 3.5 | Separation of Domestic and Industrial Wastewater | 24 |
| 3.6 | Hauled Wastewater | 24 |
| 3.7 | Vandalism | 24 |
| 3.8 | Grease Interceptors | 25 |
| **SECTION 4 WASTEWATER PERMIT ELIGIBILITY** | | |
| 4.1 | Wastewater Survey | 26 |
| 4.2 | Wastewater Permit Requirement | 26 |
| 4.3 | Permitting Existing Connections | 26 |
| 4.4 | Permitting New Connections | 26 |
| 4.5 | Permitting Extra-Jurisdictional Industrial Users | 27 |
| 4.6 | Wastewater Permit Application Contents | 27 |
| 4.7 | Application Signatories and Certification | 29 |
| 4.8 | Wastewater Permit Decision | 29 |

SECTION 5 WASTEWATER PERMIT ISSUANCE PROCESS

5.1 Wastewater Permit Duration 31
5.2 Wastewater Permit Contents 31
5.3 Wastewater Permit Appeals 33
5.4 Wastewater Permit Modifications 34
5.5 Wastewater Permit Transfer 34
5.6 Wastewater Permit Revocation 35
5.7 Wastewater Permit Reissuance 36
5.8 Regulation of Wastewater Received from other Jurisdictions 36

SECTION 6 REPORTING REQUIREMENTS

6.1 Baseline Monitoring Reports 37
6.2 Compliance Schedule for Meeting Pretreatment Standards 39
6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline 39
6.4 Periodic Compliance Reports 40
6.5 Report of Changed Conditions 42
6.6 Reports of Potential Problems 42
6.7 Reports from Unpermitted Users 43
6.8 Sample Collection 43
6.9 Analytical Requirements 44
6.10 Monitoring Charges 44
6.11 Timing 44
6.12 Record Keeping 45
6.13 Reporting of Additional Monitoring 45
6.14 Notification of Significant Production Change 45
6.15 Notification of the Discharge of Hazardous Waste 45

SECTION 7 COMPLIANCE

7.1 Inspection and Sampling 47
7.2 Search Warrants 48

SECTION 8 CONFIDENTIAL INFORMATION 49

SECTION 9 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE 50

SECTION 10 ADMINISTRATIVE ENFORCEMENT REMEDIES

10.1 Industrial User Violation Process 51
10.2 Violation 52
10.3 Violation of Permit Parameters 52
10.4 Additional Violation Parameters 52
10.5 IU Notice to City of Violation 53
10.6 Consent Orders 53
10.7 Show Cause Hearing 53
10.8 Compliance Orders 53
10.9 Cease and Desist Orders 54
10.10 Administrative Fines 54
10.11 Emergency Suspensions 55
10.12 Termination of Permit 55

SECTION 11 JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief 57
11.2 Civil Penalties 57
11.3 Criminal Prosecution 58
11.4 Remedies Nonexclusive 58

SECTION 12 SUPPLEMENTAL ENFORCEMENT ACTIONS

12.1 Performance Bonds 59
12.2 Liability Insurance 59
12.3 Water Supply Severance 59
12.4 Public Nuisance 59
12.5 Contractor Listing 59

SECTION 13 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATION

13.1 Affirmative Defenses 60
13.2 Upset 60
13.3 General/Specific Prohibitions 61
13.4 Bypass 61

SECTION 14 MISCELLANEOUS PROVISIONS

14.1 Pretreatment Charges and Fees 63
14.2 Sewer Connection Charges Levied and Imposed 63
14.3 Rates for Connection Charges 64
14.4 Fees for Sewer Service Levied and Imposed 64
14.5 Severability Conflicts with Other Ordinances 65
14.6 Emergency Clause 65

SECTION 15 EFFECTIVE DATE 66

**ORDINANCE NO. 1413**

**AN ORDINANCE AMENDING CHAPTER 13.16 OF THE CANBY MUNICIPAL CODE (CMC), REPEALING AND REPLACING ORDINANCE 1292 REGARDING SEWER USE; AND DECLARING AN EMERGENCY.**

**WHEREAS,** the City of Canby wishes to amend its existing sewer ordinance to better align with current law, regulations, and best practices;

**THE CITY OF CANBY ORDAINS AS FOLLOWS:**

**SECTION 1 - GENERAL PROVISIONS**

1.1 Purpose and Policy

This Ordinance sets forth uniform requirements for users of Publicly Owned Treatment Works (POTW) for the City of Canby and enables the City to Comply with all applicable State and Federal laws including the Clean Water Act (Act 33 U.S.C. 1251 et seg.), and the General Pretreatment Regulations (40 CFR Part 403) and Oregon Administrative Rules (OAR) Chapter 340. The objectives of this Ordinance are:

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

(B) To prevent the introduction of pollutants into the POTW, which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

(C) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal to be in compliance with applicable statutes and regulations;

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

(E) To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;

This Ordinance shall apply to all users of the POTW. The Ordinance authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires users reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

1.2 Administration

Except as otherwise provided herein, the Public Works Director or designated representative of the City shall administer, implement and enforce the provisions of this Ordinance.

1.3 Definitions

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Ordinance shall have the meanings hereinafter designated;

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

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

(3) Authorized Representative of the User.

A. If the industrial user is a corporation, authorized representative shall mean:

i) The president, secretary, or 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

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

B. If the industrial user is a partnership or sole proprietorship: a general partner or proprietor, respectively;

C. If the user is a Federal, State or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee.

D. The individuals described in subsections A-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 City.

(4) Best Management Practice (BMP). Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

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

(6) Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.

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

(8) Categorical Industrial User. A user regulated by one of EPA's Categorical Pretreatment Standards.

(9) City. City of Canby Oregon, or the City Council of Canby, Oregon or a designated representative of the City of Canby, Oregon.

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

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

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

(13) Continuing Violation. Each day a violation occurs may be considered as a separate violation.

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

(15) Department of Environmental Quality or (DEQ). The Oregon Department of Environmental Quality or where appropriate, the term may also be used as a designation for the Director of the Department or other duly authorized official of the Department.

(16) Domestic User (Residential User). Any person who contributes sewage wastewater to the municipal wastewater system

(17) Environmental Protection Agency or U.S. EPA. The U.S. Environmental Protection Agency or, where appropriate, the Director of the Region 10 Office of Water, or other duly authorized official of said agency.

(18) Existing Source. A categorical industrial user, the construction or operation of whose facility commenced prior to the publication by EPA of proposed categorical pretreatment standards, which would be applicable to such source if and when the standard is thereafter promulgated in accordance with Section 307 of the Act.

(19) Existing User. Any non-categorical user which was discharging wastewater prior to the effective date of this Ordinance.

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

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

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

(23) Industrial User. Any person, which is a source of indirect discharge.

(24) Industrial Pretreatment Coordinator. The person designated by the City to carry out certain duties and responsibilities associated with the pretreatment program. This person is the duly authorized representative of the Public Works Director in accordance with Section 1.3 (47) of this Ordinance.

(25) Infiltration. Any water other than wastewater that enters the sewage treatment system (including service connections) from the ground, typically from broken pipes, or defective joints in pipes and manhole walls.

(26) Inflow. Any water from storm water runoff that directly enters the sewage system during or immediately after rainfall. Typical points of entry include, but are not limited to, connections with roof and area drains, storm drain connections, holes in manhole covers in flooded streets, cooling water discharges, catch basins, and drainage from springs and swampy areas.

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

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

A. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

B. Therefore is a cause of a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II, commonly referred to as (RCRA); and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

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

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

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

(32) Municipal Wastewater System or System's. A "treatment works" as defined in 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 treatment plant. The term also means the municipal entity having the responsibility for the O&M of the system.

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

(34) New Source.

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

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

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

iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

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

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

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

(a) Any placement, assembly, or installation of facilities or equipment; or

(b) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new sources facilities or equipment; or

ii) 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 contacts 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.

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

(36) Non-domestic Pollutants. Any substances other than human excrement and household gray water (shower, dish washing operations, etc.). Non-domestic pollutants include the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).

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

(38) Permittee. A person or user issued a wastewater discharge permit.

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

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

(41) Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, 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 characteristics of the wastewater [i.e., pH, temperature, TSS, Turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor].

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

(43) Pretreatment Requirement. Any substantive or procedural requirements related to pretreatment imposed on a user, other than a pretreatment standard.

(44) Pretreatment Standards or Standards. Prohibited discharge standards, categorical pretreatment standards, and local limits established by the City/POTW.

(45) Prohibited Discharge Standard or Prohibited Discharges. Absolute prohibitions against the discharge of certain types or characteristics of wastewater as established by EPA, DEQ, and/or the City

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

(47) Public Works Director. The Person or their duly authorized representative designated by the City to supervise operation of the POTW its Pretreatment Program and carry out certain duties and responsibilities by this chapter.

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

State of Oregon or any portion thereof.

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

(50) Sewage. Human excrement and gray water (household showers, dish washing operations, etc.)

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

(52) Shall, May. "Shall" is mandatory, "may" is permissive.

(53) Significant Industrial User.

A. An industrial user subject to Categorical Pretreatment Standards; or

B. Any other Industrial user that:

i) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blow down wastewater); contributes a process wastewater); or

ii) Contributes a process wastestream which makes up (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

iii) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

C. Upon a finding that a user meeting the criteria in Subsection B has no reasonable potential for adversely affecting the POTW's operation or for violating any applicable pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a user [in accordance with procedures in 40 CFR 403.8(f)(6) determine that such user should not be considered a significant industrial user.

(54) Slug Load. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2 of this Ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations,

Local Limits or Permit conditions.

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

(56) State. State of Oregon

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

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

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

(60) Treatment Plant. That portion of the municipal wastewater system designed to provide treatment of sewage and industrial waste.

(61) Treatment Plant Effluent. The discharge from the POTW into the waters of the State.

(62) User or Industrial User. A source of indirect discharge. The source shall not include "domestic user" as defined herein.

(63) Violation. Shall have occurred when any requirement of this Ordinance has not been met; or when a written request of the Public Works Director or other designee, made under the authority of this Ordinance, is not met within the specified time; or when a condition of a permit or contract issued under the authority of this Ordinance is not met within the specified time; or when permitted effluent limitations are exceeded, regardless of intent or accident; or if an industrial user (IU), causes the POTW to violate its NPDES permit, the IU is in violation; or when false information has been provided by the discharger.

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

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

1.4 Abbreviations - The following abbreviations shall have the designated meanings:

| | | |
|---|---|---|
| - | BMP | Best Management Practices |
| - | BOD | Biochemical Oxygen Demand |
| - | CFR | Code of Federal Regulations |
| - | COD | Chemical Oxygen Demand |
| - | DEQ | Department of Environmental Quality |
| - | EPA | U.S. Environmental Protection Agency |
| - | GPD | Gallons Per Day |
| - | IU's | Industrial Users |
| - | IWA | Industrial Waste Acceptance |
| - | $LC_{50}$ | Lethal Concentration for Fifty Percent (50%) of the Test Organisms |
| - | l | Liter |
| - | LEL | Lower Explosive Limit |
| - | mg | Milligrams |
| - | mg/l | Milligrams per liter |
| - | NPDES | National Pollutant Discharge Elimination System |
| - | O&M | Operation and Maintenance |
| - | POTW | Publicly Owned Treatment Works |
| - | RCRA | Resource Conservation and Recovery Act |
| - | SNC | Significant Non-Compliance |
| | SP/SCP | Spill Prevention/Slug Control Plan |
| - | SIC | Standard Industrial Classification |
| - | SWDA | Solid Waste Disposal Act (42 U.S.C. 6901) |
| - | TSS | Total Suspended Solids |
| - | USC | United States Code |

## SECTION 2 - GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

A. General Prohibitions [CFR 403.5 (a)]

A user may not introduce into a POTW any pollutant(s) which cause Pass Through or Interference. These general prohibitions and the specific prohibitions in this section apply to each User introducing pollutants into a POTW whether or not the User is subject to other National Pretreatment Standards or any national, State, or local Pretreatment Requirements.

B. Specific Prohibitions [CFR 403.5 (b)]

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

(1) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the municipal wastewater system. Included in this prohibition are wastestreams with a closed cup flash point of less than 140° F (60° C) using the test methods prescribed in 40 CFR 261.21.

(2) Solid or viscous substances in amounts which will cause interference with the flow in a sewer

(3) Any fat, oils or greases, including but not limited to petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(4) Any wastewater from a grab sample having a pH less than 6.0 su., or more than 10.0 su., or which may otherwise cause corrosive structural damage to the POTW, but in no case discharges with a pH lower than 5.0, unless the sewerage treatment system is specifically designed to accommodate such discharges.

(5) Any wastewater containing pollutants, including oxygen-demanding pollutants (BOD,etc), in sufficient quantity (flow or concentration), either singly or by interaction with other pollutants, to pass through or interfere with the municipal wastewater system, any wastewater treatment or sludge process, or constitute a hazard to humans or animals.

(6) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(7) Any substance which may cause the treatment plant effluent or any other residues, sludge, or scum, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the system cause the City to be in noncompliance with sludge use or disposal regulations or permits issued under Section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or other State requirements applicable to the sludge use and disposal practices being used by the City.

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

(9) Heat in amounts that will inhibit biological activity in the POTW resulting in Interference, but in no case wastewater that causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).

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

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

(12) Any hauled pollutants, except at discharge points designated by the City in accordance with Section 3.6 of this Ordinance.

(13) Storm water, surface water, groundwater, artisan well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, cooling water and unpolluted industrial wastewater, unless specifically authorized by the Public Works Director or other designee.

(14) Any sludge, screening, or other residues from the pretreatment of industrial wastes.

(15) Any medical wastes, except as specifically authorized by the Public Works Director or other designee in a wastewater permit.

(16) Any material containing ammonia, ammonia salts, or other chelating agents, which will produce metallic complexes that interfere with the municipal wastewater system.

(17) Any material identified as hazardous waste according to 40 CFR Part 261 except as specifically authorized by the Public Works Director or other designee.

(18) Any wastewater causing the treatment plant effluent to demonstrate toxicity to test species during a bio-monitoring evaluation.

(19) Recognizable portions of the human body or animal anatomy.

(20) Any wastes containing detergents, surface-active agents, or other substances, which may cause excessive foaming in the municipal wastewater system.

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

(22) Any wastewater from dry cleaning machines.

*Waste prohibited by this section shall not be processed or stored in such a manner that these waste could be discharged to the POTW.*

2.2 Federal Categorical Pretreatment Standards

Users subject to categorical pretreatment standards are required to comply with applicable standards set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

(A) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Public Works Director or other designee may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c)

(B) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Public Works Director or other designee shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(C) A user may obtain a variance from categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(D) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

2.3 State Requirements

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

2.4 "Local Limits"

(A) Authority to Establish Local Limits: The City is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).

(B) Numerical Local Limits.

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

The Public Works Director or other designee may impose mass limitations in addition to (or in place of) the concentration-based limitations above. Where a user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent or applicable pretreatment standard shall apply.

(C) BMP - The Publics Works Director or other designee may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement Local Limits and the requirements of Section 2.1. Such BMP's shall be considered local limits and Pretreatment Standards.

2.5 City's Right to Revision

The City reserves the right to establish, by Ordinance or in wastewater permits, more stringent limitations or requirements for discharge to the municipal wastewater system if deemed necessary to comply with the objectives presented in Section 1.1 of this Ordinance or the general and specific prohibitions in Section 2.1 of this Ordinance.

2.6 Special Agreement

The City reserves the right to enter into special agreements with users setting out special terms under which the industrial user may discharge to the system. In no case will a special agreement waive compliance with a pretreatment standard or

requirement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. Industrial users may also request a variance from the categorical pretreatment standard from US EPA. Such a request shall be approved only if the user can prove that factors relating to its discharge are fundamentally different from the factors considered by US EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

2.7 Dilution

No user shall ever increase the use of process water, or in any way attempt to dilute, a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard, or any other pollutant-specific limitation developed by the City.

2.8 Deadline for Compliance with Categorical Standards

Compliance by existing sources with categorical pretreatment standards shall be within three (3) years of the date the standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR Chapter I Subchapter N.
New sources shall install and have in operating condition, and shall start-up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards.

2.9 Inflow and Infiltration

All property owners and responsible users identified by the City as contributors to excessive or improper infiltration or inflow into the treatment works shall be advised of their infiltration or inflow problems. All such properties shall be provided a 180-day grace period in which to correct the identified infiltration and inflow problems, said 180-day grace period to extend from the date of notification. By the end of the 180-day grace period, each property owner shall notify the City that corrective actions have been taken or are in progress, and describe the actions being taken.

A property owner failing to notify the City of corrective actions prior to the end of the 180-day grace period shall be subject to termination of service without further notice, and water service shall be immediately discontinued and shut off until the violations shall have been corrected in accordance to federal, state, and City regulations.

In the event any instance of excessive infiltration or inflow into the treatment works of the City shall continue beyond the 180-day grace period, it is hereby declared that such continuing infiltration or inflow is a public nuisance. The

Public Works Director or other designee shall have the right to abate such a public nuisance, to enter upon any private property within the City for such a purpose, and to assess the cost of such abatement as a lien against the property upon which such infiltration and inflow occurs. The Public Works Director or other designee shall assess the cost of such abatement to the property from which infiltration and inflow occurs. An administration fee of $350.00 dollars or 5% of the cost, whichever is greater, shall be assessed in addition to all cost of abatement. The assessment of all cost shall be levied by the filing of a statement of such costs together with the description of the property or properties to be assessed and the name of the owner(s) thereof with the City Recorder. The City Recorder shall enter the assessment as a lien against such property in the Lien Docket of the City.

No new connections from inflow sources into the water pollution control facilities shall be permitted without the approval of the Public Works Director or other designee.

## SECTION 3 - PRETREATMENT OF WASTEWATER

### 3.1 Pretreatment Facilities

Industrial users shall provide necessary wastewater treatment as required to comply with this Ordinance and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in Section 2 above, within the time limitations specified by the Public Works Director or other designee. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the City under the provisions of this Ordinance.

### 3.2 Additional Pretreatment Measures

Whenever deemed necessary, the Public Works Director or other designee may require industrial users to restrict the industrial user's discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the municipal wastewater system and determine the industrial user's compliance with the requirements of this Ordinance.

(A) Each person discharging, into the municipal wastewater system greater than 100,000 gallons per day or greater than five percent (5%) of the average daily flow in the system, whichever is lesser, may be required by the Public Works Director or other designee to install and maintain, on his property and at his expense, a suitable storable and flow control facility to ensure equalization of flow over a twenty-four (24) hour period. The facility shall have a capacity for at least fifty percent (50%) of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller. A wastewater permit may be issued solely for flow equalization.

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

(C) Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

3.3 Spill Prevention and Slug Control Plans

The City may require any user to develop and implement a spill prevention/slug control plan (SP/SCP). Where deemed necessary by the City, facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the user's cost and expense. A spill prevention/slug control plan (SP/SCP) showing facilities operating procedures to provide this protection shall be submitted to the City for review and approval before implementation. The City shall determine which user is required to develop a plan and require said plan to be submitted within 90 days after notification by the City. Each user shall implement its SP/SCP as submitted or as modified after such plan has been reviewed and approved by the City. Review and approval of such plans and operating procedures by the City shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of this Ordinance. The plan shall be posted and available for inspection at the facility during normal business hours.

(A) Any user required to develop and implement an accidental spill prevention plan shall submit a plan which addresses, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges;

2. Description of stored chemicals;

3. Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any standards in Section 2.1 through 2.4 of this Ordinance, including any discharge that would violate a prohibition under 40 CFR 403.5(b), or as required by Section 6.6 of this Ordinance; and

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

(B) Users shall notify the City Wastewater Treatment Facility immediately after the occurrence of a slug or accidental discharge of substances regulated by this Ordinance. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected user shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the City on account thereof under State or Federal law.

(C) Within five (5) days following an accidental discharge, the user shall submit to the City a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this Ordinance or other applicable law.

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

(E) Preventive Measures

If any user has a spill or uncontrolled discharge of prohibited or restricted substances into the City sewer, the Public Works Director or other designee may require the user's spill prevention and control plan to be resubmitted, with revisions, in order to fully comply with the requirements of this Ordinance. The POTW may also require the industrial user to install, modify equipment and/or make other changes necessary to prevent such discharges as a condition of issuance of and Industrial Waste Discharge Permit or as a condition of continued discharge into the City sewer system. The Public Works Director or other designee may establish a schedule of compliance for construction completion.

The Public Works Director or other designee may require connections or entry points which could allow spills or uncontrolled discharges of prohibited or restricted substances to enter the City sewer systems to be eliminated, labeled, or controlled, so as to prevent the entry of wastes in violation of this Ordinance.

3.4 Tenant Responsibility

Any person who shall occupy an industrial user's premises as a tenant under any rental or lease agreement shall be jointly and severally responsible for compliance with the provisions of this Ordinance in the same manner as the Owner.

3.5 Separation of Domestic and Industrial Wastestreams

All domestic wastewaters from rest rooms, showers, drinking fountains, etc. unless specifically included as part of a categorical pretreatment standard, shall be kept separate from all industrial wastewaters until the industrial wastewaters have passed through a required pretreatment system and the industrial user's monitoring facility. When directed to do so by the Public Works Director or other designee, industrial users must separate existing domestic wastestreams.

3.6 Hauled Wastewater

Septic tank waste (septage) will be accepted into the municipal wastewater system at a designated receiving structure within the POTW area, (when such structures become available), and at such times as are established by the Public Works Director or other designee, provided such wastes do not contain toxic or hazardous pollutants, and provided such discharge does not violate any other requirements established by the City. The Public Works Director or other designee shall issue permits for individual vehicles to use such facilities.

(A) All waste haulers, regardless of the origin of the hauled wastes, shall be considered "industrial users" for the purposes of this Ordinance and required to apply for a waste hauler permit.

(B) The discharge of domestic septage wastes from commercial or industrial sites requires prior approval . The Public Works Director shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation.

(C) Fees for the discharge of septage will be established as part of the user fee system as authorized in Section 14.

3.7 Vandalism

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the municipal wastewater system. Any person found in violation of this requirement shall be subject to the sanctions set out in Section 10, below.

3.8 Grease Interceptors

The City may inspect grease interceptors (i.e., traps, oil/water separators) to insure proper installation and maintenance. Users may be required to reimburse the City for cleaning and additional maintenance of public sewer mains due to discharge of grease caused by noncompliance with these rules and regulations.

In the event the City, during routine line maintenance, discovers an accumulation of grease in a public line sufficient to restrict the normal flow of waste, upstream IUs shall be inspected. When the City determines which user was responsible for the grease or oil discharge, the user may be required to cease discharge of the prohibited waste, install an interceptor, and shall maintain the interceptor, and may be charged for the cost of cleaning the line.

## SECTION 4 - WASTEWATER PERMIT ELIGIBILITY

### 4.1 Wastewater Survey

When requested by the City of Canby, all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The Public Works Director or other designee is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be considered a violation of this Ordinance and subjects the industrial user to the sanctions set out in Section 10.

### 4.2 Wastewater Permit Requirement

It shall be unlawful for significant industrial users to discharge wastewater into the City's sanitary sewer system without first obtaining a wastewater permit from the Public Works Director or other designee. Any violation of the terms and conditions of wastewater permit shall be deemed a violation of this Ordinance and subjects the industrial user to the sanctions set out in Section 10. Obtaining a wastewater permit does not relieve a permittee of its obligation to obtain other permits required by Federal, State or local law.

The Public Works Director or other designee may require other non-domestic users, non-discharging categorical industrial users and liquid waste haulers, to obtain waste water permits as necessary to carry out the purpose of this chapter.

### 4.3 Permitting Existing Connections

Any significant industrial user, without a current industrial discharge permit, which discharges industrial waste into the municipal wastewater system prior to the effective date of this Ordinance and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the City for a wastewater permit in accordance with Section 4.6 below, and shall not cause or allow discharges to the system to continue after one hundred eighty (180) days of the effective date of this Ordinance except in accordance with a permit issued by the Public Works Director or other designee.

### 4.4 Permitting New Connections

Any significant industrial user proposing to begin or recommence discharging industrial wastes into the municipal wastewater system must obtain a wastewater permit prior to beginning or recommencing such discharge. An application for this permit must be filed at least ninety (90) days prior to the anticipated startup date.

4.5 Permitting Extra-Jurisdictional Industrial Users

Any existing significant industrial user located beyond the City limits shall submit a permit application, in accordance with Section 4.6 below, within ninety (90) days of the effective date of this Ordinance. New significant industrial users located beyond the City limits shall submit such applications to the Public Works Director or other designee ninety (90) days prior to any proposed discharge into the municipal system. Upon review of such application, the Public Works Director or other designee may enter into a contract with the industrial user which requires the industrial user to subject itself to and abide by this Chapter, including all permitting, compliance monitoring, reporting, and enforcement provisions herein. Alternately, the Public Works Director or other designee may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against said user.

4.6 Wastewater Permit Application Contents

In order to be considered for a wastewater permit, all industrial users required to have a permit must submit the following information on an application form approved by the Public Works Director or other designee.

(A) Name, mailing address, and location if different from the mailing address);

(B) Environmental control permits held by or for the facility;

(C) Standard Industrial Classification (SIC) codes for pretreatment the industry as a whole and any processes for which categorical pretreatment standards have been promulgated.

(D) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used at the facility which are or could accidentally or intentionally be discharged to the municipal system;

(E) Number and type of employees, and hours of operation, and proposed or actual hours of operation of pretreatment system.

(F) Each product by type, amount, process or processes and rate of production;

(G) Type and amount of raw materials process (average and maximum per day);

(H) The site plans, floor plans and mechanical and plumbing plans and details to show all sewers, floor drains, and appurtenances by size, location and elevation, and all points of discharge.

(I) Time and duration of the discharge.

(J) Measured average daily and maximum daily flow, in gallons per day, to the municipal system from regulated process streams and other streams as necessary to use the combined wastestream formula in 40 CFR 403.6(e);

(K) Daily maximum, daily average, and monthly average wastewater flow rates, including daily, monthly, and seasonable variations, if any;

(L) Wastewater constituents and characteristics, including any pollutants in the discharge which are limited by Federal, State, and local standards, pretreatment standards applicable to each regulated process; and nature and concentration (or mass if pretreatment standard requires) of regulated pollutant in each regulated process (daily maximum and average concentration or mass when required by a pretreatment standard) Sampling and analysis shall be undertaken in accordance with 40 CFR Part 136; and certified that sampling is representative of normal work cycles and expected pollutant discharges.

(M) A statement reviewed by an authorized representative of the user and certified to by a qualified professional indicating whether or not the pretreatment standards are being met on a consistent basis, and if not, what additional pretreatment is necessary.

(N) If additional pretreatment and/or O&M will be required to meet the standards, then the industrial user shall indicate the shortest time schedule necessary to accomplish installation or adoption of such additional treatment and/or O&M. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule;

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and conducting routine operation).
No increment referred to above shall exceed nine (9) months nor shall the total compliance period exceed thirty-six (36) months.

2. No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Public Works Director or other designee including, at a minimum, whether or not it complied with the increment of

progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports.

(O) Any other information as may be deemed necessary by the Public Works Director or other designee to evaluate the permit application.

(P) A new source discharger may provide estimates as to the character and volume of pollutants described in Section 4.6 (J)(K)(L).

*Incomplete or inaccurate applications shall not be processed and shall be returned to the industrial user for revision.*

4.7 Authorized Signatory and Accuracy Certification

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

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

If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to Public Works Director or other designee prior to or together with any reports to be signed by an Authorized Representative.

4.8 Wastewater Permit Decisions

The Public Works Director or other designee will evaluate the data furnished by the industrial user and may require additional information. Within sixty (60) days of receipt of a complete permit application, the Public Works Director or other designee will determine whether or not to issue a wastewater permit. If no determination is made within this time period, the application will be deemed denied.

If any waters or wastes are discharged, or area proposed to be discharged to the public sewers, which waters contain the substances or possess the

characteristics enumerated in Section 2, and which in the judgment of the Public Works Director or other designee, may have a deleterious effect upon the municipal treatment system, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Public Works Director or other designee may take any of the following actions:

(A) Reject the wastes,

(B) Require pretreatment to an acceptable condition for discharge to the public sewers,

(C) Require control over the quantities and rates of discharge, and/or

(D) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

## SECTION 5 - WASTEWATER PERMIT ISSUANCE PROCESS

### 5.1 Wastewater Permit Duration

Permits shall be issued for a specific time period, not to exceed five (5) years. A permit may be issued for a period less than five (5) years, at the discretion of the Public Works Director or other designee. Each permit shall indicate a specific date upon which it will expire.

### 5.2 Wastewater Discharge Permit Contents

Wastewater permits shall include such conditions as are reasonably deemed necessary by the Public Works Director or other designee to prevent pass through or interference, protect the quality of the water body receiving the treatment plants effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(A) Wastewater Permits shall contain the following conditions:

1. A statement that indicates permit duration, which in no event shall exceed 5 years.

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

3. Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards in Federal, State and local law.

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

5. Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.

6. Requirements to control Slug Discharge, if determined by the Public Works Director or other designee to be necessary.

7. Requirements for immediate reporting of any instance of noncompliance and for automatic re-sampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).

8. Requirements for prior notification and approval by the Public Works Director or other designee of any new introduction of wastewater pollutants or of any change in the volume or character of the wastewater prior to introduction in the system.

9. Requirements for immediate notification of excessive, accidental, or slug discharges, or any discharge which could cause any problems to the system.

(B) Permits may contain, but need not be limited to, the following:

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulations and equalization;

2. Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.

3. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

4. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges.

5. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.

6. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.

7. Requirements for installation and maintenance of inspection and sampling facilities and equipment.

8. Specifications for monitoring programs, which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

9. Compliance schedules for meeting pretreatment standards and requirements.

10. Requirements for submission of periodic self- monitoring or special

notification reports.

11. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified in Section 6.12 and affording the Public Works Director, or representatives, access thereto.

12. Requirements for prior notification and approval by the Public Works Director or other designee of any change in the manufacturing and/or pretreatment process used by the permittee.

13. A statement that compliance with permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the permit.

14. Other conditions as deemed appropriate by the Public Works Director or other designee to ensure compliance with this Ordinance, and state and federal laws, rules, and regulations.

5.3 Wastewater Discharge Permit Appeals

Any person, including the user, may petition the Public Works Director or other designee to reconsider the terms of the permit within ten (10) days of its issuance.

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

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

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

(D) If the Public Works Director or other designee fails to act within fifteen (15) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purpose of judicial review.

(E) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Clackamas County Circuit Court, pursuant to ORS Chapter 34, within sixty (60) days of the final administrative decision.

5.4 Wastewater Permit Modifications

The Public Works Director or other designee may modify the permit for good cause including, but not limited to, the following:

(A) To incorporate any new or revised federal, state, or local pretreatment standards or requirements.

(B) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of permit issuance.

(C) A change in the municipal wastewater system that requires either a temporary or permanent reduction or elimination of the authorized discharge.

(D) Information indicating that the permitted discharge poses a threat to the City's municipal wastewater system, City personnel, or the receiving waters.

(E) Violation of any terms or conditions of the wastewater permit.

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

(G) Revisions of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13.

(H) To correct typographical or other errors in the permit.

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

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

5.5 Wastewater Permit Transfer

Permits may be reassigned or transferred to a new owner and/or operator only with prior approval of the Public Works Director or other designee. The permittee must give at least thirty (30) days advance notice to the Public Works Director or other designee. The notice must include provision for furnishing the new owner or operator with a copy of the existing permit and a written certification by the new owner which:

(A) States that the new owner has no immediate intent to change the facility's operations and processes.

(B) Identifies the specific date on which the transfer is to occur.

(C) Acknowledges full responsibility for complying with the existing permit.

*Failure to provide advance notice of a transfer renders the wastewater permit terminated.*

5.6 Wastewater Permit Revocation

The Public Works Director or other designee may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(A) Failure to notify the City of significant changes to the wastewater prior to the changed discharge;

(B) Falsifying self-monitoring reports;

(C) Tampering with monitoring equipment;

(D) Refusing to allow the City timely access to the facility premises and records;

(E) Failure to meet effluent limitations;

(F) Failure to pay administrative penalties;

(G) Failure to pay sewer charges;

(H) Failure to meet compliance schedules;

(I) Failure to complete a wastewater survey;

(J) Failure to provide advance notice of the transfer of a permitted facility;

(K) Violations of any pretreatment standard or requirement or any terms of the permit or the Ordinance.

(L) Failure to provide prior notification of changed conditions pursuant to Section 6.5 of this Ordinance.

(M) Misrepresentation of, or failure to fully disclose all relevant facts in the wastewater discharge permit application.

(N) Failure to complete a wastewater discharge permit application.

*Wastewater discharge permits shall be voided upon cessation of operations, or transfer of business ownership. All wastewater discharge permits issued to a*

*particular user are void upon the issuance of a new wastewater permit to that user.*

5.7 Wastewater Discharge Permit Reissuance

A user who is required to have a wastewater discharge permit shall apply for a wastewater discharge permit application, in accordance with Section 4.6 of this Ordinance, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit. A user whose existing wastewater discharge permit has expired and who has submitted its re-application in the time period specified herein shall be deemed to have an effective wastewater discharge permit until the City issues or denies the new wastewater discharge permit. A user whose existing wastewater discharge permit has expired and who failed to submit its re-application in the time period specified herein will be deemed to be discharging without a wastewater discharge permit.

5.8 Regulation of Wastewater Received from other Jurisdictions

If another municipality, or user located within another jurisdiction, contributes wastewater to the municipal wastewater system, the Public Works Director or other designee shall enter into an inter-municipal or inter-jurisdictional agreement with the contributing municipality or jurisdiction, or enter into a contract with the user(s), in accordance with requirements specified in the City's pretreatment procedures. All inter-jurisdictional agreements made with users outside the City's jurisdiction will be considered a major modification to the City NPDES permit and will require approval from the Department of Environmental Quality.

## SECTION 6 - REPORTING REQUIREMENTS

6.1 Baseline Monitoring Reports

(A) Within one hundred and eighty (180) days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the municipal system shall be required to submit to the City a report which contains the information listed in paragraph 6.1(B), below. At least ninety (90) days prior to commencement of their discharge, new sources, including existing users which have changed their operation or processes so as to become new sources, shall be required to submit to the City a report which contains the information listed in paragraph 6.1(B). A new source shall also be required to report the method 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.

(B) The information required by this section includes:

1. Identifying Information. The user shall submit the name and address of the facility including the name of the operator and owners;

2. Permits. The user shall submit a list of any environmental controls permits held by or for the facility;

3. Description of Operation. The user shall submit a brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the system from the regulated processes.

4. Flow Measurement. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the system from regulated process streams and other streams as necessary to allow use of the combined wastewater formula set out in 40 CFR 403.6 (e).

5. Measurement of Pollutant.

   (a) The industrial user shall identify the categorical pretreatment standards applicable to each regulated process;

(b) In addition, the industrial user shall submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by federal, state or City standards) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations (or mass, where required by federal, state or City standards) shall be reported. The sample shall be representative of daily operations.

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

(d) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto.

(e) The Control Authority may allow the submission of a baseline monitoring report, which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

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

6. Special Certification. A statement, reviewed by an authorized representative of the industrial user and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operations and maintenance (O&M) and/or additional pretreatment is required in order to meet the pretreatment standards and requirements; and

7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M shall be established. The completion

date in this schedule will not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 4.6 (N) of this Ordinance.

8. Signature and Certification. All baseline-monitoring reports must be signed and certified in accordance with Section 4.7.

6.2 Compliance Schedule for meeting pretreatment standards

The following conditions shall apply to the compliance schedule required by Section 6.1(B)(7) of this Ordinance:

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, commencing and completing construction, and beginning and conducting routine operation).

B. No increment referred to above shall exceed nine (9) months.

C. The user shall submit a progress report to the 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 it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.

D. In no event shall more than nine (9) months lapse between such progress reports.

6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source, following commencement of the introduction of wastewater into the municipal (POTW) wastewater system, any user subject to such pretreatment standards and requirements shall submit to the Public Works Director a report containing the information described in section 6.1 (B) 4-6 of this Ordinance. For users 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 user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4.7 and 6.1(B)(6)(8).

6.4 Periodic Compliance Reports

(A) Any user that is required to have an industrial waste discharge permit and performs self-monitoring shall submit to the City semi-annually on the fifteenth day of June and December, unless required on other dates or more frequently by the City, a report indicating the nature and concentration of pollutants in the discharge which are limited by Pretreatment Standards. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the City or the Pretreatment Standard necessary to determine the compliance of the User. The frequency of monitoring shall be as prescribed within the industrial waste discharge permit. At a minimum, users shall sample their discharge at least twice per year. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the Discharge according to 40 CFR 403.12 (b)(4).

(B) The report shall include a record of the concentration (and mass if specified in the wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations and shall also include any additional information required by this Ordinance or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported. If a user sampled and analyzed more frequently than what was required by the City or by this Ordinance, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge during the reporting period.

(C) Any user subject to equivalent mass or concentration limits established by the City or by unit production limits specified in the applicable categorical standards shall report production data as outlined in Section 6.3.

(D) If the City calculated limits to factor out dilution flows or non-regulated flows, the user will be responsible for providing flows from the regulated process flows, dilution flows and non-regulated flows.

(E) Flows shall be reported on the basis of actual measurements, provided, however, that the City may accept reports of average and minimum flows estimated by verifiable techniques if the City determines that an actual measurement is not feasible.

(F) Discharges sampled shall be representative of the user's daily operations and samples shall be taken in accordance with the requirements specified in Section 6.

(G) The City may require reporting by users that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent, or determine any other factor which is related to the operation and maintenance of the sewer system.

(H) The City may require self-monitoring by the user or, if requested by the user, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this section. If the City agrees to perform such periodic compliance monitoring, it may charge the user for such monitoring, based upon the costs incurred by the City for the sampling and analyses. Any such charges shall be added to the normal sewer charge and shall be payable as part of the sewer bills. The City is under no obligation to perform periodic compliance monitoring for a user.

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

1. In the event an industrial user's monitoring results indicate a violation has occurred, the industrial user shall immediately (within 24 hours of becoming aware of the violation) notify the Public Works Director or other designee and shall re-sample its discharge. The industrial user shall report the results of the repeated sampling within thirty (30) days of discovering the first violation.

2. The reports shall indicate the time, date, persons, location 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 city sewer system. All sampling and analysis protocol shall be in accordance with 40 CFR Part 136.

3. The Public Works Director or other designee may require reporting by dischargers that are not required to have an industrial discharge permit if information or data is needed to establish a sewer charge, determine the treat ability of the effluent or determine any other factor which is related to the operation and maintenance of the sewer system.

4. Reporting requirements for Industrial Users not subject to categorical Pretreatment Standards will be according to the requirements established in 40 CFR 403.12 (h) and Section 6.4 of this Ordinance.

(J) All periodic compliance reports must be signed and certified in accordance with Section 4.7 of this Ordinance.

6.5 Report of Changed Conditions

Each industrial user shall notify the Public Works Director or other designee of any planned significant changes to the industrial user's operations or system, which might alter the nature, quality, or volume of its wastewater at least 30 days before the change. Notification of any changes in the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12 (p) must also be reported.

(A) The Public Works Director or other designee may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a waste water permit application under Section 4.6, if necessary.

(B) The Public Works Director or other designee may issue a wastewater permit under Section 4.8 or modify an existing wastewater permit under Section 5.4.

(C) No industrial user shall implement the planned changed condition(s) until and unless the Public Works Director or other designee has responded to the industrial user's notice.

(D) For purposes of this requirement, flow or loading increases of twenty (20%) or greater and the discharge of any previously unreported pollutant shall be deemed significant.

6.6 Reports of Potential Problems

(A) In the case of an accidental or other discharge, which may cause potential problems for the municipal wastewater system, it is the responsibility of the user to immediately telephone and notify the City POTW Supervisor or Public Works Director or other designee of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

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

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

(D) Significant Industrial Users are required to notify the Public Works Director or other designee immediately of any changes at its facility affecting the potential for a Slug Discharge. Failure to notify the City of potential problem discharges shall be deemed a separate violation of this Ordinance.

6.7 Reports from Unpermitted Users

All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater permit shall provide appropriate reports to the City as the Public Works Director or other designee may require.

6.8 Sample Collection

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

(A) Except as indicated in Section B and C below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by Public Works Director. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

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

(C) For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 6.1 and 6.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Public Works Director may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

(D) Samples that are taken by City personnel for the purposes of determining compliance with the requirements of this Ordinance may be split with the discharger if requested (or a duplicate sample provided in the instance of fats, oils and greases) if requested before or at the time of sampling.

(E) The Public Works Director or other designee may require a discharger to install and maintain at the discharger's expense a suitable manhole in the discharger's branch sewer or other suitable monitoring access to allow observation, sampling and measurement of all industrial wastes being discharged into the City sewer system. It shall be constructed in accordance with plans approved by the City and shall be designed so that flow measuring and sampling equipment may be conveniently installed. Access to the manhole or monitoring access shall be available to City representatives at all times.

6.9 Analytical Requirements

All sample analyses shall be performed in accordance with the procedures set forth in 40 CFR, Part 136 and any amendments thereto or with any other test procedures approved by the Administrator of The Environmental Protection Agency. If there are no approved test procedures for a particular pollutant, then analyses shall be performed using other validated procedures approved by the Public Works Director or other designee and, if the discharge is subject to a Categorical Pretreatment Standard, by the EPA Administrator.

6.10 Monitoring Charges

The City may recover the expenses incurred in collecting and analyzing samples of the industrial user's discharge by adding the City's expenses to the industrial user's sewer charges.

6.11 Timing

Written reports shall be deemed to have been transmitted at the time of deposit, postage prepaid, into a mail facility services by the United States Postal Service.

6.12 Record Keeping

Industrial users shall retain, and make available for inspection, and copying, all records and information required to be retained under 40 CFR 403.12(o), (including documentation associated with Best Management Practices). These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning compliance with this Ordinance, or where the industrial user has been specifically notified of a longer retention period by the Public Works Director or other designee, DEQ or EPA.

6.13 Reporting of Additional Monitoring

If an industrial user subject to the reporting requirements of 40 CFR 403.12(e) or (h), which requires submission of periodic compliance reports, monitors any pollutant more frequently than required by the City, using the procedures prescribed in 40 CFR Part 136, the results of this monitoring shall be included in the report, as required by 40 CFR 403.12(g)(5).

6.14 Notification of Significant Production Change

An industrial user operating under a waste discharge permit incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the Public Works Director or other designee within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the Public Works Director or other designee of such anticipated change shall be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

6.15 Hazardous Waste Notification

(A) Any user who commences the discharge of hazardous waste shall notify the City, the EPA Regional Waste Management Division Director, of any discharge into the municipal wastewater system of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the municipal wastewater system, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place within 180 days of the effective date of this

rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than 180 after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR 403.12 (j) and Section 6.5 of this Ordinance. The notification requirement in this Section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12 (b), (d), (e), and Sections 6.1, 6.3, and 6.4 of this Ordinance.

(B) Dischargers are exempt from the requirements of this paragraph (1), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous waste, unless the wastes are acute hazardous waste as specified in 40 CFR 261.30 (d) and 261.33 (e). Discharge of more than fifteen (15) kilograms of non-acute hazardous waste in a calendar month, or of any quantity of acute hazardous waste as specified in 40 CFR 261.30 (d) and 261.33 (e), requires a one - time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(C) In the case of any new regulations under Section 3001 of the RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Director, the EPA Regional Waste Management Division Director, and DEQ Solid and Hazardous Waste Division Director, of the discharge of such substance within ninety (90) days of the effective date of such regulations.

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

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

## SECTION 7 - COMPLIANCE

7.1 Inspection and Sampling

Authorized City representatives may inspect and monitor any non-residential user of City water and/or sewer services to determine compliance with the requirements of this Ordinance. The discharger shall allow the City or its authorized representatives to enter upon the premises of the discharger at all reasonable hours, for the purpose of inspection, sampling, records examination, record copying, and photographic documentation. The City shall also have the right to set up on the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. The right of entry includes, but is not limited to, access to those portions of the premises that contain facilities for sampling, measuring, treating, transporting or otherwise handling waste, and storing records, reports or documents relating to the treatment, sampling or discharge of waste.

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

(B) The entry shall be made at reasonable times during normal operating or business hours unless an emergency situation exists as determined by the Public Works Director or other designee;

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

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

(E) Unreasonable delays in allowing City personnel access to the industrial user's premises shall be a violation of this Ordinance.

7.2 Search Warrants

If the Public Works Director or Authorized Representative has been refused access to a building, structure or property or any part thereof, and has probable cause to believe that there may be a violation to this Ordinance, or that there is a need to inspect as part of a routine inspection program of the City designed to protect the overall public health, safety and welfare of the community, the Public Works Director shall contact the City Attorney who may then apply for an administrative search warrant from a court of competent jurisdiction.

## SECTION 8 - CONFIDENTIAL INFORMATION

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

(A) Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

(B) When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the pubic but shall be made available immediately upon request to governmental agencies for uses related to this Ordinance, the National Pollutant Discharge Elimination System (NPDES) program, and in enforcement proceedings involving the person furnishing the report.

## SECTION 9 - PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

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

(A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 2;

(B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(C) Any other violation of a Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the City determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;

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

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

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

(G) Failure to accurately report noncompliance; or

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

## SECTION 10 - ADMINISTRATIVE ENFORCEMENT REMEDIES

This Section authorizes the development and implementation of an Enforcement Response Plan, Industrial Sampling/Inspection Procedures Manual, and any modifications or revisions thereof. Administration of fines for noncompliance shall be contained in the City's Enforcement Response Procedure. These procedures shall also establish a general guideline for establishment of a fine schedule. The City is hereby authorized to adopt rules, procedures and forms to implement the provisions of this chapter.

Any discharger that fails to comply with the requirements of this Ordinance and any rules adopted hereunder or provisions of its industrial waste discharge permit may be subject to enforcement actions as prescribed below in addition to those developed by the City.

10.1 Industrial User Violation Process

Whenever the City determines that a violation of this Ordinance, any permit issued hereunder, or any order issued by the City pursuant to this Ordinance, has occurred or is taking place, it may initiate enforcement action as provided in this Section. In addition, any enforcement action or remedy provided in state or federal law may be employed. If the City believes a violation has occurred or is occurring, a representative of the City shall make a reasonable effort to notify the user of the violation. All violations including the first violation shall receive a written Notice of Violation, and may also incur a monetary penalty.

(A) All written Notices of Violations shall describe the violation and any potential penalty (monetary or additional pretreatment). The written notice may further require that a response to the violation be submitted to the City within a ten (10) day time period.

(B) If a written Notice of Violation requires submittal of a response, the response shall include an explanation of the cause of the violation, a plan for its satisfactory correction and prevention of future such violations, and specific corrective or preventive actions. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Public Works Director or other designee to initiate emergency action or other enforcement action without first issuing a Notice of Violation.

10.2 Violation

(A) A violation of limitations established under this Ordinance, any applicable federal, state or pretreatment standards, or specific requirements of a discharge permit shall constitute a violation of this Ordinance and shall be cause for enforcement action by the City, including but not limited to levying of administrative penalties as described in Section 10 regardless of the intent of the user. Each day of a continuing violation shall constitute a separate offense for purposes of computing the applicable penalty.

(B) Whenever the City finds that any IU has violated or is violating this Ordinance, a wastewater permit or order issued hereunder, or any other pretreatment requirement, the Public Works Director or other designee shall cause to be served upon said IU a written Notice of Violation. The Notice of Violation shall be delivered to the user's premises or be sent by certified mail to the address of the permit holder on record with the City.

10.3 Violation of Permit Parameters

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

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

10.4 Additional Violation Parameters

A violation of this Ordinance shall also be deemed to occur:

(A) For noncompliance with any special reporting requirements established by permit, written request of the City, or as specified by federal pretreatment standards (40 CFR 403.12).

(B) Pollutants prohibited by this Ordinance are discharged into the system.

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

10.5 IU Notice to City of Violation

If sampling performed by an industrial user indicates a violation, the industrial user shall notify the Public Works Director or designate within 24 hours of becoming aware of the violation. The user shall also resample and report the results within 30 days of becoming aware of violation pursuant to 40 CFR 403.12(g)(2). Resampling must continue until it is evident that the discharge is within compliance.

10.6 Consent Orders

The City may enter into Consent Orders, assurance of voluntary compliance, or other similar documents establishing an agreement with an IU not in compliance with any permit parameter or provision of this Ordinance. Such orders will include specific action to be taken by the IU to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as administrative orders and upon issuance, such orders shall be judicially enforceable. Use of a consent order shall not be a bar against, or prerequisite for, taking any other action against the user.

10.7 Show Cause Hearing

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

The notice of the hearing shall be served personally or by registered mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the IU. Whether or not the IU appears at the hearing, the City may pursue enforcement action following the hearing date. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

10.8 Compliance Orders

When the City finds that an IU has violated or continues to violate the Ordinance, permits or orders issued hereunder, or any other pretreatment requirement, an order may be issued to the IU directing that, following a specific time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. In addition to such Compliance

Orders, the City may require additional self-monitoring for at least ninety (90) days after consistent compliance has been achieved, after which time the self-monitoring conditions in the discharge permit shall control. Issuance of a compliance order shall not be a bar against, or prerequisite for, taking any other action against the user.

10.9 Cease and Desist Orders

When the City finds that an industrial user has violated or continued to violate this Ordinance, any permit or order issued hereunder, or any other pretreatment requirement, the City may issue an order to the industrial user directing them to cease and desist all such violations and directing the user to:

(A) Immediately comply with all requirements; and

(B) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

10.10 Administrative Fines

(A) When the City finds that a user has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City may fine such user in an amount not to exceed two thousand five hundred ($2,500.00). Such fines shall be assessed on a per violation, per day basis. In the case of monthly or long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(B) Unpaid charges, fines and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of twenty percent (20%) of the unpaid balance, and interest shall accrue thereafter at a rate of seven percent (7%) per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

(C) Users desiring to dispute such fines must file a written request for the City to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Where a request has merit, the City may convene a hearing on the matter. In the event the users appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The City may add the cost of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

10.11 Emergency Suspensions

The City may immediately suspend an industrial user's discharge and the industrial user's wastewater discharge permit, after informal notice to the industrial user, whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The City may also immediately suspend an industrial user's discharge and the industrial user's wastewater discharge permit, after notice and opportunity to respond, that threatens to interfere with the operation of the municipal waste water system, or which presents or may present an endangerment to the environment.

(A) Any industrial user notified of a suspension of its wastewater permit shall immediately stop or eliminate its contribution. In the event of an industrial user's failure to immediately comply voluntarily with the suspension order, the City shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the system, its receiving stream, or endangerment to any individuals. The City shall allow the industrial user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed, unless the termination proceedings set forth in Section 10.12 are initiated against the user.

(B) An industrial user which is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence prior to the date of any show cause or termination hearing under Section 10.7 and 10.12

10.12 Termination of Permit

In addition to those provisions in Section 5.6 of this Ordinance, any industrial user which violates the following conditions of this Ordinance, wastewater permits, or orders issued hereunder is subject to permit termination:

(A) Violation of permit conditions.

(B) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(C) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(D) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(E) Slug loads causing interference, pass through, or damage to human health, the environment, or the treatment plant

(F) When the facility serviced by the sanitary sewer service is occupied prior to a Certificate of Occupancy being issued.

(G) When the facility served by the sanitary sewer service does not comply with the provisions of the City's "Construction Standards for Public Works Facilities".

(H) When the facility served by the sanitary sewer service does not comply with a condition of approval issued by the City Council, Planning Commission, or Site and Design Review Committee.

(I) When the facility served by the sanitary sewer service is improperly connected to a City utility system or is connected without obtaining the required approvals or without paying the required fees and charges.

(J) When a user fails to immediately comply with an Administrative Order requiring the immediate halting or elimination of discharge.

*Non-complying industrial users shall be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under Section 10.7 of this Ordinance, why the proposed action should not be taken.*

## SECTION 11 - JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief.

Whenever an industrial user has violated, threatens to violate, or continues to violate the provisions of this Ordinance, permits or orders issued hereunder, or any other pretreatment requirements, the City may petition the courts for the issuance of a temporary or permanent injunction, as may be appropriate, which restrains or compels the specific performance of the wastewater permit, order, or other requirement imposed by this Ordinance on activities of the industrial user. Such other action as may be appropriate for legal and/or equitable relief may also be sought by the City. A petition for injunctive relief shall not be a bar against, or a prerequisite for taking any other action against the User.

11.2 Civil Penalties

Any industrial user which has violated or continues to violate this Ordinance, any order or permit hereunder, or any other pretreatment requirement shall be liable to the City for a maximum civil penalty of two thousand five hundred dollars ($2,500) per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each calendar day during the period of this violation.

A. The court may award reasonable attorney fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

B. In determining the amount of civil penalty, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, corrective actions by the industrial user, economic benefit to the user of noncompliance, the compliance history of the user, and any other factors as justice requires.

C. Where appropriate, the city may accept mitigation projects in lieu of the payment of civil penalties where the project provides a valuable service to the City and the industrial user's expense in undertaking the project is at least one hundred and fifty percent (150%) of the civil penalty.

11.3 Criminal Prosecution

Any industrial user who willfully or negligently violates any provisions of the Ordinance, any orders or permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than two thousand five hundred dollars ($2,500) per violation per day or imprisonment for not more than (1) one year, or both.

(A) Any industrial user who knowingly makes any false statement, representations or certification in any application, record, report, plan or other documentation filed or required to be maintained pursuant to the Ordinance or wastewater permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Ordinance shall, upon conviction, be punished by a fine of not more than two thousand five hundred dollars ($2,500) per violation per day or imprisonment for not more than (1) one year, or both.

(B) In the event of a second conviction, the user shall be punishable by a fine not to exceed five thousand dollars ($5,000) per violation per day or imprisonment for not more than (3) three years, or both.

11.4 Remedies Nonexclusive

(A) A City Enforcement Response Plan will be developed by the City in accordance with 40 CFR Section 403.8 and submitted to the City Attorney for approval and certification. The City will implement the plan after receiving approval from the City Attorney.

(B) The remedies provided for in this Ordinance are not exclusive. The City may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will be in accordance with the City of Canby's Enforcement Response Plan. However the City may take other action against any user when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any noncompliant user.

## SECTION 12 - SUPPLEMENTAL ENFORCEMENT ACTIONS

### 12.1 Performance Bonds

The City may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this Ordinance, any orders, or a previous permit issued hereunder unless such user first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the City to be necessary to achieve consistent compliance.

### 12.2 Liability Insurance

The City may decline to reissue a permit to any industrial user which has failed to comply with the provisions of this Ordinance, any orders, or a previous permit issued hereunder, unless the industrial user first submits proof that it has obtained financial assurance sufficient to restore or repair damage to the municipal wastewater system caused by its discharge.

### 12.3 Water Supply Severance

When an industrial user has violated the provisions of this Ordinance, orders, or permits issued hereunder, the City may sever water service to the industrial user and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

### 12.4 Public Nuisance

Any violation of the prohibitions or effluent limitations of this Ordinance, permits, or orders issued hereunder is hereby declared a public nuisance and shall be corrected or abated as directed by the City. Any person(s) creating a public nuisance shall be subject to the provisions of the City Ordinance governing such nuisance, including reimbursing the City for any costs incurred in removing, abating or remedying said nuisance.

### 12.5 Contractor Listing

Subject to other applicable law, industrial users which have not achieved consistent compliance with applicable pretreatment standards and requirements are not eligible to receive contract awards for the sale of goods or services to the City.

## SECTION 13 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.1 Affirmative Defenses

A user shall have an affirmative defenses in any action brought against it alleging a violation of the general prohibitions, specific prohibitions and this Ordinance, where the user can demonstrate the requirements established in 40 CFR 403.5 (a)(2).

13.2 Upset

(A) For the purpose of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(B) An upset shall be an affirmative defense to an enforcement action brought for noncompliance with categorical pretreatment standards and requirement if the following conditions are met:

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

1. The user can identify the cause of the upset.

2. The facility was operating in a prudent and workman-like manner at the time of the upset and was in compliance with applicable O&M procedures; and

3. The user submits the following information to the City within 24 hours of becoming aware of the upset, If this report is given orally, the user must also submit a written report containing such information within five (5) days:

   a) A description of the discharge and its causes of noncompliance;

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

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

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

(5) Users will have the opportunity for judicial determination on any claim of upset only in an enforcement action for noncompliance with categorical pretreatment standards.

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

13.3 Prohibited Discharge Standards

An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in Section 2.1 first paragraph of this Ordinance or the specific prohibitions in Sections 2.1 (B)(2-3), (5-11), (13-20) of this Ordinance if it can prove that it did not know or have reasons to know that its discharge, alone or in conjunction with discharges from other sources would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to and during the pass through or interference, or (b) no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, in compliance with applicable sludge use or disposal requirements.

13.4 Bypass

(A) For the purposes of this section,

1. "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

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

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

1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Public Works Director or other designee, at least ten (10) days before the date of the bypass, if possible.

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

3. Bypass is prohibited, and the Public Works Director or other designee may take an enforcement action against a user for bypass, unless

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

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

   c) The user submitted notices required under paragraph (3) of this section.

(C) The Public Works Director or other designee may approve an anticipated bypass, after considering its adverse effects; if the Public Works Director or other designee determines that it will meet the three conditions listed in paragraph (B) of this section.

## SECTION 14 - MISCELLANEOUS PROVISIONS

### 14.1 Pretreatment Charges and Fees

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

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

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

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

(D) Fees for filing appeals;

(E) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Ordinance and are separate from all other fees, fines and penalties chargeable by the City.

### 14.2 Sewer Connection Charges Levied and Imposed

(A) What is a Connection Charge?

All sewer connection charges and any other development-related charges shall be imposed in accordance with the City's most current Systems Development Ordinance and implementing resolutions.

(B) What the Connection Charge is based on

The service connection charge is levied upon a property based upon the existing or intended use of the property at the time of application for connection. If the property is improved, expanded, subdivided or otherwise modified so as to increase the connection charge due from that property, a service connection charge shall be levied for the modified portion of the property based upon connection charges in effect at the time of modification.

(C) Abutting a Right–of-Way with Sanitary Service

Any dwelling that is on property abutting any street, alley or right-of-way in which there is located a sanitary sewer of the City of Canby and, that by reason of Ordinance, resolution or motion duly adopted by the City

Council, is not required to connect to the sewage system, shall not be subject to the sewer connection charges provided by this Ordinance.

14.3 Rates for Connection Charges

The City Council shall by resolution, establish appropriate rates and methodologies to be charged for connecting to the City sewer system. Such rates shall differentiate between various types of users or activities with discharge into the sewage system.

14.4 Fees for Sewer Service Levied and Imposed

(A) Rates

All users of the City's sewage system shall pay to the City the rates for sewer service as provided by this Ordinance.

(B) Abutting a Row with Service

Any dwelling that is on property abutting any street, alley or right-of-way in which there is located a sanitary sewer of the City of Canby and that, by reason of Ordinance, resolution or motion duly adopted by the City Council, is not required to connect to the sewage system, shall not be subject to the sewer service charges provided by this Ordinance.

(C) When Levied (existing)

When sewer service is initially provided to existing dwellings, said sewer service charge shall first be levied for the month following the first month in which dwellings are permitted to be connected to the sewer.

(D) When Levied (new)

When new dwellings are served by the sewage system, said sewer service charge shall first be levied for the month following the first month in which the dwelling is occupied or utilized by personnel not associated with the construction of the dwelling.

(E) Based on Availability

Sewer service charges are to be levied and imposed based upon the availability of sewer service, and are not dependent upon the owner's schedule for connecting to the sewer system after said system is available.

(F) Minimum Service

The minimum service for an individually billed service shall be equal to the

charge for a residential service.

(G) Who is Billed

Sewer service charges shall be billed to any dwelling showing connection to the City sewer and either water use or electric power use.

(H) Property Owner Responsibility

Sewer service charges may be billed to an occupant; however, the property owner shall be ultimately responsible for all sewer service charges to his property.

14.5 Severability and Conflicts with other Ordinances

If any provision of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

To the extent that an inconsistency exists between the terms of this Ordinance and another existing Ordinance, this Ordinance shall be deemed to preempt the other Ordinance and the terms of this Ordinance shall control.

14.6 Emergency Clause

This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this Ordinance shall take effect immediately after final reading and enactment by the Canby City Council.

**SECTION 15 - EFFECTIVE DATE**

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting thereof on March 18, 2015, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on April 1, 2015, commencing at the hour of 7:30 PM in the City Council Chambers located at 155 NW 2nd Avenue, Canby, Oregon

Kimberly Scheafer, MMC
City Recorder

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 1st day of April 2015, by the following vote:

YEAS 5 NAYS 0

Brian Hodson
Mayor

ATTEST:

Kimberly Scheafer, MMC
City Recorder

Approved as to form: _____ 4-1-15
City Attorney Date