

**IN THE CITY COUNCIL
FOR THE CITY OF HOOD RIVER, OREGON**

ORDINANCE NO. 2075

An Ordinance amending Title 12 (Public Utilities) Chapter 12.06 (Uniform Requirements for the Users of the City Owned Treatment Works Regarding Pretreatment of Wastewater) of the Hood River Municipal Code, to make the City's pretreatment requirements and procedures for Wastewater Pretreatment consistent with current state and federal law.

The Hood River City Council finds as follows:

WHEREAS, State and Federal laws, including the Clean Water Act (33 United States Code §1251, et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403) provide requirements and minimum limitations for all public pretreatment of wastewater throughout the state, and Hood River has codified this authority in Chapter 12.06 of the Hood River Municipal Code; and

WHEREAS, the City's public pretreatment of wastewater procedures, when adopted and as amended from time to time, are intended to keep pace with changes in state and federal law and it has been several years since the City's public pretreatment of wastewater requirements were amended to reflect increased regulations as incorporated into federal and state law; and

WHEREAS, federal and state law provides increased safety requirements for wastewater pretreatment because of recognition of the necessity of increased environmental considerations; and

WHEREAS, the Oregon Legislature routinely enacts federal changes to existing environmental laws, including wastewater pretreatment, that establish higher thresholds for commercial effluent and treatment of such effluent to comply with federal law; and

WHEREAS, the City Council desires to update municipal regulations to reflect alterations in federal and state laws within the Municipal Code; and

WHEREAS, the City Council considered alterations and amendments to Section of HRMC chapter 12.06.020.B.2 (Uniform Requirements for the Users of the City Owned Treatment Works Regarding Pretreatment of Wastewater) to implement new procedures and regulations adopted by federal and state agencies, including the Oregon Department of Environmental Quality (DEQ), at its regular meeting on November 8, 2021, at which time it accepted testimony and comment on the proposal set forth in Exhibit A, attached hereto and incorporated herein by this reference.

NOW, THEREFORE, based on the foregoing findings, which are incorporated herein by this reference, the City of Hood River ordains as follows:

Section 1 — Repeal. Title 12 (Public Utilities) Chapter 12.06 (Uniform Requirements for the Users of the City Owned Treatment Works Regarding Pretreatment of Wastewater) of the Hood River Municipal Code is hereby repealed in its entirety.

Section 2 — Adoption. Exhibit A, attached hereto and incorporated herein by this reference, is hereby adopted and shall be codified as Title 12 (Public Utilities) Chapter 12.06 (Uniform Requirements for the Users of the City Owned Treatment Works Regarding Pretreatment of Wastewater) of the Hood River Municipal Code.

Section 3. Severability. If any portion, provision or section of this ordinance or the provisions of HRMC Chapter 12.06 adopted herein is determined to be invalid or unenforceable for any reason, that finding shall not affect the validity of enforceability of any other portion, provision or section of this ordinance or HRMC Chapter 12.06.

Read for the First Time on April 10, 2023.
Read for the Second Time on April 10, 2023.

This Ordinance shall take effect on the 31st day following the second reading.

AYES: 7
NAYS: 0
ABSTAIN: 0
ABSENT: 0

Paul Blackburn - Mayor

ATTEST:

Approved as to form:

Jennifer Gray, City Recorder

Daniel Kerns, City Attorney

Chapter 12.06

UNIFORM REQUIREMENTS FOR THE USERS OF THE CITY-OWNED TREATMENT WORKS REGARDING PRETREATMENT OF WASTEWATER

Sections:

- 12.06.010 General provisions.
- 12.06.020 General sewer use requirements.
- 12.06.030 Pretreatment of wastewater.
- 12.06.040 Individual Wastewater discharge permit application.
- 12.06.050 Individual Wastewater discharge permit issuance process.
- 12.06.060 Reporting requirements.
- 12.06.070 Compliance monitoring.
- 12.06.080 Confidential information.
- 12.06.090 Publication of users in significant noncompliance.
- 12.06.100 Administrative enforcement remedies.
- 12.06.110 Judicial enforcement remedies.
- 12.06.120 Supplemental enforcement action.
- 12.06.130 Affirmative defenses to discharge violations.
- 12.06.140 Miscellaneous provisions.

Legislative History: Ord. 1732 (1996)

12.06.010 General provisions.

1. *Purpose and Policy.* This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the City of Hood River and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act ([33](#) United States Code § [1251](#) et seq.) and the General Pretreatment Regulations ([40](#) Code of Federal Regulations Part [403](#)). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with its operation;
- B. To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
- C. To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the POTW;

E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW; and

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

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

2. *Administration.* Except as otherwise provided herein, the City Engineer shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the City Engineer may be delegated by the City Engineer to a duly authorized City employee, or other personnel.

3. *Abbreviations.* The following abbreviations, when used in this ordinance, shall have the designated meanings:

- BOD – Biochemical Oxygen Demand
- BMP – Best Management Practice
- BMR – Baseline Monitoring Report
- CFR – Code of Federal Regulations
- CIU – Categorical Industrial User
- COD – Chemical Oxygen Demand
- DEQ – Oregon Department of Environmental Quality
- EPA – U.S. Environmental Protection Agency
- gpd – gallons per day
- IU – Industrial User
- mg/l – milligrams per liter
- NPDES – National Pollutant Discharge Elimination System
- NSCIU – Non-Significant Categorical Industrial User
- POTW – Publicly Owned Treatment Works

- RCRA – Resource Conservation and Recovery Act
- SIU – Significant Industrial User
- SNC – Significant Noncompliance
- TSS – Total Suspended Solids
- U.S.C. – United States Code

4. *Definitions.* Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

A. *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.

B. *Approval Authority.* The State of Oregon Department of Environmental Quality (DEQ).

C. *Authorized Representative of the User.*

1. If the user is a corporation:

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

b. The manager of one or more manufacturing, production, or operation facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate 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.

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

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

4. The individuals described in paragraphs 1 through 3, 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.

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

E. 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.

F. *Categorical Pretreatment Standard or Categorical Standard*. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act ([33](#) U.S.C. § [1317](#)) which apply to a specific category of users and which appear in [40](#) CFR Chapter I, Subchapter N, Parts [405](#)–[471](#).

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

H. *City*. The City of Hood River, the City Council of Hood River, or its authorized representative.

I. City Engineer. The professional engineer designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance. The term also means a Duly Authorized Representative of the City Engineer.

J. Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

K. *Composite Sample*. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time, as specified by the City Engineer or representative thereof.

L. *Control Authority*. The City of Hood River, the City Council of Hood River, or its authorized representative.

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

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

O. *Environmental Protection Agency or EPA*. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

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

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

R. *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.

S. *Industrial User*. A source of indirect discharge.

T. *Instantaneous Discharge 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.

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

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

W. *May*. Discretionary or permissive.

X. *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.

Y. *Monthly average*. The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

Z. *Monthly average Limit*. The highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

AA. *National Pollutant Discharge Elimination System (NPDES) Permit*. A permit issued to a POTW or other discharger pursuant to Section 402 of the Act.

BB. *New Source*.

1. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether 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.
2. 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 **Section (1)(b) or (c)** above but otherwise alters, replaces, or adds to existing process or production equipment.
3. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - a. Begun, or caused to begin, as part of a continuous onsite construction program.
 - i. any placement, assembly, or installation of facilities or equipment; or
 - ii. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or.
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

CC. 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.

DD. 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

EE. *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, and local governmental entities.

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

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

HH. *Pre-treatment*. 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.

II. *Pre-treatment Requirements*. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

JJ. *Pre-treatment Standards or Standards*. Pre-treatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

KK. *Prohibited Discharge Standards or Prohibited Discharges*. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in **Section 12.06.020 (1)** of this ordinance.

LL. *Publicly Owned Treatment Works or 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.

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

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

OO. *Shall*. Mandatory.

PP. *Significant Industrial User (SIU)*.

Except as provided in paragraph (3) of this section, a Significant User is:

1. An Industrial User subject to categorical pretreatment standards; or
2. An Industrial User that:
 - a. Discharges an average of twenty – five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - c. 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.
3. Upon a finding that a user meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in [40 CFR 403.8\(f\)\(6\)](#), determine that such user should not be considered a significant industrial user.

QQ. *Slug Load or Slug Discharge.* Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in **Section 12.06.020 (1)** of this ordinance. A Slug Discharge is any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary 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.

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

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

TT. *User or Industrial User.* A source of indirect discharge.

UU. *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.

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

12.06.020 General sewer use requirements.

1. *Prohibited Discharge Standards.*

A. *General Prohibitions.* No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

B. *Specific Prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed – cup flashpoint of less than 140 F (60 C) using the test methods specified in [40 CFR 261.21](#);
2. Wastewater having a pH less than **6.5** or more than **10.5**, or otherwise causing corrosive structural damage to the POTW or equipment;
3. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one – half inch (1/2”).
4. Pollutants, including oxygen – demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
5. Wastewater having a temperature greater than **140 F (60 C)**, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 F (40 C);
6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
8. Trucked or hauled pollutants, except at discharge points designated by the City Engineer in accordance with **Section 12.06.030 (4)** of this ordinance;
9. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
10. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant’s effluent, thereby violating the City’s NPDES permit;
11. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;

12. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the City Engineer;
13. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
14. Medical wastes, except as specifically authorized by the City Engineer in an individual wastewater discharge permit;
15. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
16. Detergents, surface – active agents, or other substances which may cause excessive foaming in the POTW;
17. Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l; or
18. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than ten percent (10%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter.

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

2. *National Categorical Pretreatment Standards.*

Users must comply with the categorical pretreatment standards found at [40](#) CFR Chapter I, Subchapter N, Parts [405](#) – [471](#).

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City Engineer may impose equivalent concentration or mass limits in accordance with [40](#) CFR [403.6\(c\)](#).
- B. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the City Engineer may convert the limits to equivalent limitations expressed either as a mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
- C. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the City Engineer shall impose an alternate limit using the combined wastestream formula in [40](#) CFR [403.6\(e\)](#).
- D. A CIU may obtain a net gross adjustment to a categorical pretreatment standard in accordance with [40](#) CFR [403.15](#).

3. *Oregon State Pretreatment Standards.* Users must comply the Oregon State Pretreatment Standards codified at OAR 340-045-0063.

4. *Local Limits.*

A. The City Engineer is authorized to establish Local Limits pursuant to 40 CFR 403.5(c). **The following table includes the established Local Limits:**

Local Limits Table

Pollutant	Local Limit
Arsenic	0.24 mg/L^a
Cadmium	0.12 mg/L^a
Chromium (Total)	5.0 mg/L^b
Copper	3.97 mg/L^a
Cyanide	1.25 mg/L^a
Lead	1.17 mg/L^a
Mercury	0.042 mg/L^a
Molybdenum	0.37 mg/L^a
Nickel	2.57 mg/L^a
Selenium	0.50 mg/L^a
Silver	0.72 mg/L^a
Zinc	7.92 mg/L^a
Flow	No Limit Adopted
BOD₅	250 mg/L Surcharge Limit^c
TSS	250 mg/L Surcharge Limit^c
pH	6.5-10.5 S.U.
Ammonia	No Limit Adopted
Oils and Grease	100 mg/L Total 25 mg/L Nonpolar
Temperature	40°C (104°F) at POTW; 60°C (140°F) from SIU
Flammability	Specified as no material with a closed-cup flashpoint less than 140° F And No two consecutive readings at > of = 5% LEL and no reading of > or = 10% LEL allowed

^a Refer to Appendix C, Oregon Department of Environmental Quality Local Limit Workbook Page 5.

^b The calculated limit is 36.5 mg/L. The Resource Conservation and Recovery Act (RCRA) sets a statutory limit of 5.0 mg/L for total chromium. Under RCRA, chromium concentrations above 5.0 mg/L are classified as hazardous. While chromium in wastewater is not covered by RCRA because of the Domestic Sewer Exclusion, the City of Hood River elects to not allow the discharge o waste at concentrations that would otherwise be classified as “hazardous,” and therefore, a limit of 5.0 mg/L is adopted.

^c These are set as standards for surcharges and not local limits. Hood River bases surcharge on concentrations above normal domestic waste strength, which are set at 250 mg/L for BOD₅ and 250 mg/L for TSS.

Note: All metals are expressed as total recoverable.

°C = degrees Celsius

°F = degrees Fahrenheit

BOD₅ = 5-day biochemical oxygen demand

LEL = Lower explosive limit

mg/L – milligrams per liter

SIU = Significant industrial user

SU = standard units

TSS = Total suspended solids

B. No person shall discharge wastewater containing restricted substances into the municipal wastewater system in excess of limitations specified in its wastewater discharge permit, or adopted by resolution by the City. The City Engineer shall publish and revise standards (Local Limits) for specific restricted substances. These standards shall be developed in accordance with [40](#) CFR Part [403.5](#) and shall implement the objectives of this Ordinance. Standards published in accordance with this Section will be deemed pretreatment standards for the purposes of Section 307(d) of the Act.

At his/her discretion, the City Engineer may impose mass limitations in addition to or in place of concentration – based limitations. The City Engineer may also revise or modify the standards (Local Limits) as required, or if deemed necessary to comply with the objectives presented in **Section 12.06.010 (1)** of this Ordinance, or the general and specific prohibitions in **Section 12.06.020 (1)** of this Ordinance, or to insure compliance with State, Federal and local law.

C. The City Engineer may develop Best Management Practices (BMPs), by ordinance or individual wastewater discharge permits, to implement Local Limits and the requirements of **Section 12.06.020 (1)** of this ordinance.

5. *City's Right of Revision.* The City reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent standards or requirements on discharges to the POTW consistent with this ordinance.

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

7. *Application of Most Stringent Limitations.* For a discharge regulated by Categorical Pretreatment Standards or other Federal, State or local discharge limitations or requirements, the most stringent limitations and requirements will apply.

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.

12.06.030 Pretreatment of wastewater.

1. *Pretreatment Facilities.* Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in **Section 12.06.020 (1)** of this ordinance within the time limitations specified by EPA, the State, or the City Engineer, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the City Engineer for review, and shall be approved by the City Engineer before such facilities are constructed. The review and approval of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this ordinance.

2. *Additional Pretreatment Measures.*

A. Whenever deemed necessary, the City Engineer may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.

B. The City Engineer may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow – control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

C. Grease, oil, and sand interceptors shall be provided when, in the opinion of the City Engineer, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the City Engineer, shall comply with the City's Fats, Oil and Grease Management Standards, (and shall be consistent with Oregon State Plumbing Specialty Code); and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly in accordance with the City's Fats, Oil and Grease Management Standards, as needed, by the user at their expense.

D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

3. *Accidental Discharge/Slug Control Plans.* At least once every two (2) years, the City Engineer shall evaluate whether each significant industrial user needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The City Engineer may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the City Engineer may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the City Engineer of any accidental or slug discharge, as required by **Section 12.06.060 (6)** of this ordinance. Such notification must also be given for any discharge which would violate any of the prohibited discharges in **Section 12.06.020 (1)** of this ordinance; and
- D. *Procedures to prevent adverse impact from any accidental or slug discharge.* Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

4. *Hauled Wastewater.*

- A. Septic tank waste may be introduced into the POTW only at locations designated by the City Engineer, and at such times as are established by the City Engineer. Such waste shall not violate **Section 12.06.020** of this ordinance or any other requirements established by the City. The City Engineer may require septic tank waste haulers to obtain individual wastewater discharge permits.
- B. The City Engineer may require haulers of industrial waste to obtain individual wastewater discharge permits. The City Engineer may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The City Engineer also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
- C. Industrial waste haulers may discharge loads only at locations designated by the City Engineer. No load may be discharged without prior consent of the City Engineer. The City Engineer may collect samples of each hauled load to ensure compliance with applicable standards. The City Engineer may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- D. Industrial waste haulers must provide a waste – tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

12.06.040 Individual Wastewater discharge permit application.

1. *Wastewater Analysis.* When requested by the City Engineer, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The City Engineer is authorized to prepare a form for this purpose and may periodically require users to update this information. Failure to provide the information shall be reasonable grounds for denying or terminating service to the user and shall be considered a violation of this ordinance.

2. *Individual Wastewater Discharge Permit Requirement.*

A. No significant industrial user shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the City Engineer, except that a significant industrial user that has filed a timely application pursuant to **Section 12.06.040 (3)** of this ordinance may continue to discharge for the time period specified therein.

B. The City Engineer may require other users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this ordinance.

C. Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in **Sections 12.06.090** through **12.06.120** of this ordinance. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

3. *Individual Wastewater Discharge Permitting: Existing Connections.* Any user required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW 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 Engineer for an individual wastewater discharge permit in accordance with **Section 12.06.040 (5)** of this ordinance, and shall not cause or allow discharges to the POTW to continue after one hundred fifty (150) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the City Engineer.

4. *Individual Wastewater Discharge Permitting: New Connections.* Any user required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with **Section 12.06.040 (5)** of this ordinance, must be filed at least sixty (60) days prior to the date upon which any discharge will begin or recommence.

5. *Individual Wastewater Discharge Permit Application Contents.* All users required to obtain an individual wastewater discharge permit must submit a permit application. The City Engineer may require all users to submit all or some of the following information as part of a permit application:

A. Identifying Information.

1. The name and address of the facility, including the name of the operator and owner.
2. Contact information, description of activities, facilities, and plant production processes on the premises;

B. Environmental Permits. A list of any environmental control permits held by or for the facility.

C. Description of Operations.

1. A brief description of operation; the nature, average rate of production (including each product produced by type, amount, process, and rate of production), and standard industrial classifications of the operation(s) carried out by each user. This description should include a schematic process diagram, which indicated points of discharge to the POTW from the regulated processes.
2. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
3. Number and type of employees, hours of operation, and proposed or actual hours of operation;
4. Type and amount of raw materials processed (average and maximum per day);
5. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
6. Time and duration of discharges;

D. The location for monitoring all wastes covered by the permit;

E. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 2.2C (40 CFR 403.6(e)).

F. Measurement of Pollutants.

1. The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the City Engineer, of regulated pollutants in the discharge from each regulated process.
3. Instantaneous, Daily Maximum and long-term average concentrations, or mass, where required, shall be reported.
4. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in **Section 12.06.060 (10)** of this ordinance. Where the Standard requires compliance

with a BMP or pollution prevention alternative, the user shall submit documentation as required by the City Engineer or the applicable Standards to determine compliance with the Standard.

5. Sampling must be performed in accordance with procedures set out in **Section 12.06.060 (11)** of this ordinance.

6. Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 6.4 B (40 CFR 403.12(e)(2).

G. Any other information as may be deemed necessary by the City Engineer to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

6. *Application Signatories and Certification.*

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

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

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

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

12.06.050 Individual Wastewater discharge permit issuance process.

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

2. *Wastewater Discharge Permit Contents.* An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the City Engineer to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Individual Wastewater discharge permits must contain:

1. A statement that indicates wastewater discharge permit issuance date, expiration date, effective date and duration, which in no event shall exceed five (5) years;
2. A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with **Section 12.06.050 (5)** of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
3. Effluent limits, including Best Management Practices, based on applicable pretreatment standards;
4. *Self monitoring, sampling, reporting, notification, and record – keeping requirements.* These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
5. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
6. Requirements to control Slug Discharge, if determined by the City Engineer to be necessary.

B. Individual Wastewater discharge permits may contain, but need not be limited to, the following conditions:

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

3. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
6. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
7. A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit; and
8. Other conditions as deemed appropriate by the City Engineer to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

3. *Wastewater Discharge Permit Appeals.* The City Engineer shall provide public notice of the issuance of an individual wastewater discharge permit. Any person, including the user, may petition the City Engineer to reconsider the terms of an individual wastewater discharge permit within thirty (30) days of notice 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 individual wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the individual wastewater discharge permit.
- C. The effectiveness of the individual wastewater discharge permit shall not be stayed pending the appeal.
- D. If the City Engineer fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an individual wastewater discharge permit, not to issue an individual wastewater discharge permit, or not to modify an individual wastewater discharge permit shall be considered final administrative actions for purposes 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 Hood River County Circuit Court within thirty (30) days.

4. *Wastewater Discharge Permit Modification.*

A. The City Engineer may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

1. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements.
 2. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance.
 3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
 4. Information indicating that the permitted discharge poses a threat to the POTW, Collection or Treatment personnel, or the receiving waters.
 5. Violation of any terms or conditions of the individual wastewater discharge permit.
 6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
 7. Revision of or a grant of variance from categorical pretreatment standards pursuant to [40 CFR 403.13](#).
 8. To correct typographical or other errors in the individual wastewater discharge permit.
9. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with **Section 12.06.050 (5)**.

5. *Individual Wastewater Discharge Permit Transfer.*

A. Individual Wastewater discharge permits may not be transferred to a new owner or operator unless all of the following conditions are met:

1. The permittee must supply to the new owner a copy of the permit at least 90 days prior to exchange of ownership.
2. The permittee must give at least 60 days advanced official notice to the City Engineer. The notice to the City Engineer must include a written certification by the new owner or operator which:
 - a. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
 - b. Identifies the specific date on which the transfer is to occur; and

c. Acknowledges full responsibility for complying with the existing individual wastewater discharge permit.

3. The City Engineer approves the individual wastewater discharge permit transfer.

B. Failure to meet the conditions of transfer renders the individual wastewater discharge permit void as of the date of facility transfer.

6. *Individual Wastewater Discharge Permit Revocation.* The City Engineer may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

A. Failure to notify the City Engineer of significant changes to the wastewater prior to the changed discharge;

B. Failure to provide prior notification to the City Engineer of changed conditions pursuant to **Section 12.06.060 (5)** of this ordinance;

C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

D. Falsifying self – monitoring or other reports and certification statements;

E. Tampering with monitoring equipment;

F. Refusing to allow the City Engineer timely access to the facility premises and records;

G. Failure to meet effluent limitations;

H. Failure to pay fines;

I. Failure to pay sewer charges;

J. Failure to meet compliance schedules;

K. Failure to complete a wastewater survey or the wastewater discharge permit application;

L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

M. Violation of any pretreatment standard or requirement, or any terms of the individual wastewater discharge permit or this ordinance.

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

7. *Individual Wastewater Discharge Permit Re-issuance.* A user with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit re-issuance by submitting a complete

permit application, in accordance with **Section 12.06.040 (5)** of this ordinance, a minimum of sixty (60) days prior to the expiration of the user's existing individual wastewater discharge permit.

8. *Regulation of Waste Received from Other Jurisdictions.*

- A. If another municipality, or user located within another municipality, contributes wastewater to the POTW, the City Engineer shall enter into an intermunicipal agreement with the contributing municipality.
- B. Prior to entering into an agreement required by paragraph A, above, the City Engineer shall request the following information from the contributing municipality:
 - 1. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
 - 2. An inventory of all users located within the contributing municipality that are discharging to the POTW; and
 - 3. Such other information as the City Engineer may deem necessary.
- C. An intermunicipal agreement, as required by paragraph A, above, shall contain the following conditions:
 - 1. A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in **Section 12.06.020 (4)** of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance and/or local limits;
 - 2. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
 - 3. A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the City Engineer; and which of these activities will be conducted jointly by the contributing municipality and the City Engineer;
 - 4. A requirement for the contributing municipality to provide the City Engineer with access to all information that the contributing municipality obtains as part of its pretreatment activities;
 - 5. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
 - 6. Requirements for monitoring the contributing municipality's discharge;

7. A provision ensuring the City Engineer access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the City Engineer; and
8. A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

12.06.060 Reporting requirements.

1. *Baseline Monitoring Reports.*

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

B. Users described above shall submit the information set forth below.

1. All information required in **Section 12.06.040 (5)(A)(1), (5)(B), (5)(C)(1) and (5)(E).**

2. *Measurement of Pollutants.*

- a. The user shall provide the information required in Section **12.06.040 (5)(F)(1) through (4).**

- b. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

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

- d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in **Section 12.06.060 (1)** of this ordinance. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation

as required by the City Engineer or the applicable standards to determine compliance with the standard.

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

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 discharges to the POTW.

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

4. *Compliance Schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in **Section 12.06.060 (2)** of this ordinance.

5. *Signature and Report Certification.* All baseline monitoring reports must be signed and certified in accordance with **Section 12.06.040 (6)** of this ordinance and signed by an Authorized Representative as defined in **Section 12.06.010 (4)(c)**.

2. *Compliance Schedule Progress Reports.* The following conditions shall apply to the compliance schedule required by **Section 12.06.060 (1)(B)(3)** 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, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

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

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

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

E. No compliance schedule shall exceed eighteen (18) months.

3. *Reports on Compliance with Categorical Pretreatment Standard Deadline.* Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the City Engineer a report containing the information described in **Section 12.06.040 (E), (F) and 12.06.040 (B)(2)** 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 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 12.06.040 (6)** of this ordinance. All sampling will be done in conformance with **Section 12.06.060 (11)**.

4. *Periodic Compliance Reports.*

A. All significant industrial users shall, at a frequency determined by the City Engineer but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section [12.06.040 \(6\)](#) of this ordinance. 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 City Engineer or the Pretreatment Standard necessary to determine the compliance status of the User.

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

C. If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the City Engineer, using the procedures prescribed in **Section 12.06.060 (11)** of this ordinance, the results of this monitoring shall be included in the report.5. *Reports of Changed Conditions.* Each user must notify the City Engineer of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.

A. The City Engineer may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under **Section 12.06.040 (5)** of this ordinance.

B. The City Engineer may issue an individual wastewater discharge permit under **Section 12.06.050 (7)** of this ordinance or modify an existing wastewater discharge permit under **Section 12.06.050 (4)** of this ordinance in response to changed conditions or anticipated changed conditions.

C. No user shall implement the planned changed condition(s) until the City Engineer has responded to the user's notice.

D. For purposes of this requirement, significant changes include, but are not limited to, flow increases of thirty percent (30%) or greater, and the discharge of any previously unreported pollutants.

6. *Reports of Potential Problems.*

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

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

C. Failure to notify the City Engineer of potential problem discharges shall be deemed a violation of this ordinance.

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

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

7. *Reports from Unpermitted Users.* All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports as required by the City Engineer.

8. *Notice of Violation/Repeat Sampling and Reporting.* If sampling performed by a user indicates a violation, the user must notify the City Engineer within twenty – four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City Engineer within thirty (30) days after becoming aware of the violation. The user may not be required to resample if the

City Engineer monitors at the user's facility at least once a month, or if the City Engineer samples between the user's initial sampling and when the user receives the results of this sampling.

9. *Notification of the Discharge of Hazardous Waste.*

A. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under [40 CFR Part 261](#). Such notification must include the name of the hazardous waste as set forth in [40 CFR Part 261](#), the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need to be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under **Section 12.06.060 (5)** of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users under the self – monitoring requirements of **Sections 12.06.060 (1), 12.06.060 (3), and 12.06.060 (4)** of this ordinance.

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

C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the City Engineer, the EPA Regional Waste

Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

D. In the case of any notification made under this 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 thereunder, or any applicable Federal or State law.

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

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

A. Except as indicated in Section B, and C below, the user must collect wastewater samples using 24-hour flow proportional composite sampling techniques. In the event flow proportional sampling is infeasible, the City Engineer may authorize the use of time proportional composite sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. 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 discharge 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 12.06.060 (1) and (3)** [40 CFR 403.12(b) and (d)], a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the City Engineer may authorize a lower minimum. For the reports required by paragraphs **Section 12.06.060 (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.

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

13. *Recordkeeping.* Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associate with Best Management Practices established under **Section 12.06.020 (4)(C)**. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the City Engineer, DEQ or EPA.

12.06.070 Compliance monitoring.

1. *Right of Entry: Inspection and Sampling.* The City Engineer shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Users shall allow the City Engineer ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the City Engineer will be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The City Engineer shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

C. The City Engineer may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure their accuracy. Calibration records shall be made available to the City Engineer upon request.

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

E. Unreasonable delays in allowing the City Engineer access to the user's premises shall be a violation of this ordinance.

2. *Search Warrants.* If the City Engineer has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the City Engineer may seek issuance of a search warrant from the Municipal Court, District Court, or Circuit Court of the City.

12.06.080 Confidential information.

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

12.06.90 Publication of users in significant noncompliance.

The City Engineer 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 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 12.06.020**;

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 12.06.020** 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 discharge violation of a pretreatment standard or requirement as defined by **Section 12.060.020** (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the City Engineer 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 Engineer'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 a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within thirty (30) 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 Engineer determines will adversely affect the operation or implementation of the local pretreatment program.

12.06.100 Administrative enforcement remedies.

1. *Notification of Violation.* When the City Engineer reasonably believes that a user has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City Engineer may serve upon that user a written Notice of Violation. Within seven (7) calendar days of the date of this notice, the user shall provide a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the City Engineer. 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 City Engineer to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

2. *Consent Orders.* The City Engineer may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any user that the City Engineer finds to be or reasonably believes to be responsible for noncompliance. Such documents will include specific action to be taken by the

user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to **Sections 12.06.100 (4) and 12.06.100 (5)** of this ordinance and shall be judicially enforceable.

3. *Show Cause Hearing.* The City Engineer may order a user which the City Engineer reasonably believes has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the City Engineer and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed administrative enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fourteen (14) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

4. *Compliance Orders.* When the City Engineer reasonably believes 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 Engineer may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided in the order, the City may discontinue that user's sewer service unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self – monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, the City's taking any other action against the user.

5. *Cease and Desist Orders.* When the City Engineer reasonably believes that a user has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the City Engineer may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, the City's taking any other action against the user.

6. *Administrative Fines.*

A. When the City Engineer 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 Engineer may fine such user in an amount set by Resolution of the City Council. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

B. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of two percent (2%) 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 Engineer to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the City Engineer may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The City Engineer may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

7. *Emergency Suspensions.* The City Engineer may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to the City Engineer to present or cause an imminent or substantial endangerment to the health or welfare of persons, including damage to the proper operation and function of the City's POTW. The City Engineer may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the City Engineer may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The City Engineer may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City Engineer that the period of endangerment has passed, unless the termination proceedings in Section 10.8 of this ordinance are initiated against the user.

B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the City Engineer within five (5) days.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

8. *Termination of Discharge.* Any user that violates the conditions in **Section 12.06.050 (6)** of this ordinance is subject to discharge termination. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under **Section 12.06.100 (3)** of this ordinance why the proposed action should not be taken. Exercise of this option by the City Engineer shall not be a bar to, or a prerequisite for, the City's taking any other action against the user.

9. *City Remedies Not Exclusive.* The administrative remedies provided for in Sections 12.06.100 and 12.06.110 shall be cumulative and not exclusive, but shall be in addition to the remedies described in Section 12.06.110, Chapter 1.10 (Civil Enforcement), ORS 30.315, and any other remedy provided for under the Municipal Code or state law. A violation of this chapter and any permit or order issued hereunder shall be deemed a civil infraction and a nuisance that endangers the public health and welfare.

12.06.110 Judicial enforcement remedies.

1. *Injunctive Relief.* When the City Engineer reasonably believes that a user has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the City Engineer may petition the Hood River County Circuit Court through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. The City Engineer may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, the City's taking any other action against a user.

2. *Civil Penalties.*

A. A user who has violated, or continues to violate, any civil provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a civil penalty in at least the amount of \$1,000 a day for each violation. In the case of a monthly or other long – term average discharge limit, penalties shall accrue for each day during the period of the violation. Each day that a violation exists or continues constitutes a separate citable civil offence and infraction that gives rise to a separate civil penalty.

B. The City is entitled to recover its reasonable costs of enforcement of this chapter, including its attorneys' and experts witness and consultant fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages or penalties for POTW noncompliance caused by the user's noncompliance incurred by the City.

C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the

violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, the City's taking any other action against a user.

3. *Criminal Prosecution.*

A. A user who negligently violates ORS Chapter 468B, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor of unlawful water pollution in the second degree, punishable by a fine up to \$25,000, or imprisonment for not more than one (1) year, or both. A person who willfully violates ORS chapter 468B or any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement as provided under ORS 468.946 shall, upon conviction, be guilty of a felony of unlawful water pollution in the first degree.

B. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of an amount to be set by Resolution of the City Council, or subject to imprisonment for not more than one (1) year, or both. This penalty shall include any fine(s) the City is subject to due to its POTW being out of compliance with its state permit and in addition to any other cause of action for personal injury or property damage available under State law.

C. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, individual wastewater discharge permit, or order issued hereunder, 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 to be set by Resolution of the City Council, or imprisonment for not more than one (1) year, or both.

D. In the event of a second conviction, a user shall be punished by a fine in an amount to be set by Resolution of the City Council, or imprisonment for not more than one (1) year, or both.

4. *Remedies Nonexclusive.* The judicial remedies provided for in this Section shall be cumulative and not exclusive, and shall be in addition to the administrative remedies described in Section 12.06.100, Chapter 1.10 (Civil Enforcement), ORS 30.315, ORS 468.943, 468.946, and any other remedy provided for under the Municipal Code or state law. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City Engineer may take other action against any user when the circumstances warrant. Further, the City Engineer is empowered to take more than one enforcement action against any noncompliant user.

12.06.120 Supplemental enforcement action.

1. *Penalties for Late Reports.* A penalty of \$500 may be assessed to any user for each day that a report required by this ordinance, a permit or order issued hereunder is late, beginning five days after the date the report is due [higher penalties may also be assessed where reports are more than 30-45 days late]. Actions taken by the City Engineer to collect late reporting penalties shall not limit the City Engineer's authority to initiate other enforcement actions that may include penalties for late reporting violations.

2. *Performance Bonds.* The City Engineer may decline to issue or reissue an individual wastewater discharge permit to any user who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the City Engineer to be necessary to achieve consistent compliance.

3. *Liability Insurance.* The City Engineer may decline to issue or reissue an individual wastewater discharge permit to any user who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

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

5. *Water Supply Severance.* Whenever a user has violated or continues to violate any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

6. *Public Nuisances*

A violation of any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the City Engineer. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code Chapter 8.08, Nuisances, governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

8. *Contractor Listing*

Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by a User found to be in Significant Noncompliance with Pretreatment

Standards or Requirements may be terminated at the discretion of the City Engineer.

12.06.130 Affirmative defenses to discharge violations.

1. *Upset.*

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

B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (C), below, are met.

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

1. An upset occurred and the user can identify the cause(s) of the upset;
2. The facility was at the time being operated in a prudent and workman – like manner and in compliance with applicable operation and maintenance procedures; and
3. The user has submitted the following information to the City Engineer within twenty – four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:
 - a. A description of the indirect discharge and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

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

E. Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

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

2. *Prohibited Discharge Standards.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in **Section 12.06.020 (1)** of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

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

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

3. *Bypass.*

A. For the purposes of 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 (C) and (D) of this section.

C. Bypass Notifications

1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the City Engineer, at least ten (10) days before the date of the bypass, if possible.

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

prevent reoccurrence of the bypass. The City Engineer may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Bypass

1. Bypass is prohibited, and the City Engineer may take an enforcement action against a user for a bypass, unless

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

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

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

2. The City Engineer may approve an anticipated bypass, after considering its adverse effects, if the City Engineer determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

12.06.140 Miscellaneous provisions.

1. *Pretreatment Charges and Fees.* The City may adopt, by City Council resolution, reasonable fees for reimbursement of costs of setting up and operating the City’s Pretreatment Program which may include:

A. Fees for wastewater discharge permit applications including the cost of processing such applications;

B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user’s discharge, and reviewing monitoring reports and certification statements submitted by users;

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

D. Fees for filing appeals;

E. Fees to recover administrative and legal costs (not included in Section 12.06.140(B) associated with the enforcement activity taken by the City Engineer to address IU noncompliance; and

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.

2. *Severability.* 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.

The Hood River Municipal Code is current through Ordinance 20, passed .

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

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