

ORDINANCE NO. 1049 N.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
AMENDING SECTION 14.08.040 AND CHAPTER 14.10 OF THE PASO ROBLES MUNICIPAL
CODE REGARDING INDUSTRIAL WASTE DISCHARGE TO CITY WASTEWATER SYSTEM

WHEREAS, Chapter 14.10 - Sewer Use of the Paso Robles Municipal Code was last revised in 2009;
and

WHEREAS, the City has made significant improvements to the City's water and wastewater systems
since that time, as well as preparations for distribution of recycled water; and

WHEREAS, in order to maximize future use of recycled water for irrigation, the City must control
sources of salt discharges, including water softeners, into the City's wastewater system, and

WHEREAS, as the upgraded Wastewater Treatment Plant was designed to serve the General Plan
buildout population of 44,000, there currently is excess treatment capacity; and

WHEREAS, this Ordinance will allow small breweries and wineries to participate in a program upon
payment of a surcharge, that will allow them to discharge wastewater into the City's system, rather than incur
the expense of installing a pre-treatment system, or hauling their wastewater out of the City; and

WHEREAS, the City is also required to update its industrial waste control ("pre-treatment") program
to comply with federal requirements; and

NOW, THEREFORE, the City Council of the City of El Paso de Robles does ordain as follows:

Section 1. The above recitals are true and correct and are incorporated as though set forth
herein,

Section 2. Section 14.08.040 – Definitions – of the Paso Robles Municipal Code is hereby revised
in its entirety to read as attached hereto as Exhibit A.

Section 3. Chapter 14.10 of the Paso Robles Municipal Code is hereby revised in its entirety to
read as attached hereto as Exhibit B.

Section 4. Severability. If any provision, clause, sentence or paragraph of this chapter or the
application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other
provisions of this chapter which can be given effect without the invalid provision or application, and to this
end the provisions of this chapter are declared to be severable.

Section 5. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption. A
summary of this Ordinance was published at least five (5) days before its adoption and a summary shall be
published within fifteen (15) days of its adoption in a newspaper of general circulation published and circulated
within the City, showing the names of those members of the City Council voting for and against the Ordinance.

INTRODUCED on the 16th day of January, 2018, and PASSED AND ADOPTED by the City Council of the
City of El Paso de Robles on this 6th day of February, 2018, by the following vote:

AYES: Hamon, Gregory, Strong, Reed, Martin

NOES:

ABSTAIN:

ABSENT:



Steven W. Martin, Mayor

ATTEST:



Kristen L. Buxkemper, Deputy City Clerk

14.08.040 Definitions

Acreage means a parcel of land that is the gross acres of said parcel before existing improved streets have been deducted.

Act means the Federal Water Pollution Control Act Amendments of 1972 (PL 92-500) (33 U.S.C. § 1251, et seq.) and any amendments thereto including the Clean Water Act of 1977, as well as any regulations, guidelines, limitations, and standards promulgated by the United States Environmental Protection Agency pursuant to the Act.

Applicant means the person applying for a permit for a sewer or plumbing installation and shall be the owner or authorized agent of the premises to be served by the sewer for which a permit is requested.

Approval Authority means the State Water Resources Control Board.

Authorized or Duly Authorized Representative of the User means:

(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 the explicit or implicit duty to make major capital investment recommendations; initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; ensure that necessary systems are established and actions taken to gather complete and accurate information to comply with wastewater discharge permit requirements; and sign documents 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 governmental facility, or their designee.

(4) The individuals described in paragraphs 1 through 3 of this subsection may designate a Duly Authorized Representative if the authorization is in writing; the authorization specifies the individual or position responsible for either the overall operation of the facility from which the discharge originates or the overall environmental matters of the company; and the written authorization is submitted to the City.

Beneficial Uses means uses of the Waters of the State that may be protected against quality degradation including, but not limited to, domestic, municipal, agricultural and industrial supply, power generation, recreation, athletic enjoyment, navigation, and the preservation and enhancement of fish, wildlife, and other aquatic resources or reserves and other uses, both tangible or intangible, as specified by federal or state law.

Best Management Practices (BMPs) means the activity schedules, prohibited practices, maintenance procedures, and other management practices needed to implement the prohibitions listed in Sections 14.10.040(A) and (B). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, leaks, sludge disposal, Waste disposal, and drainage from raw materials storage.

Biochemical Oxygen Demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade, expressed in terms of weight and concentration (milligrams per liter).

Building means any structure used for human habitation or a place of business, recreation, or other purpose containing sanitary facilities.

Building Sewer means that portion of any sewer beginning at the building drain, 2' from the building, of any building or facility and running to the City sewer main, a private sewage disposal system, or a public right-of-way or easement.

Capacity Charge means the amount charged for connection to the City's sewer system for the purpose of mitigating the impacts of new development. A reasonable relationship must be

demonstrated between the use of the fee and the type of development on which the fee is imposed.

Categorical Industrial User means an Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard.

Categorical Pretreatment Standard or Categorical Standard means any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) that apply to a specific category of Industrial Users, including those standards promulgated in 40 CFR Chapter I, Subchapter N, as amended from time to time.

Cesspool means an unlined excavation in the ground that receives the discharge of a drainage system or part thereof, so designed as to retain the organic matter and solids discharging therein, but permitting the liquids to seep through the bottom and sides.

City means the City of El Paso de Robles, County of San Luis Obispo, State of California.

City Attorney means an attorney appointed by the City Council to represent the City.

City Council means the five (5) City Council members elected at large from within the City boundaries and empowered as a group acting in public meetings to legislate in all matters related to the City's jurisdiction established by the laws of the State of California.

City Engineer means the engineer appointed by, and acting for, the City Council. The City Engineer shall be a registered civil engineer.

City Inspector means the inspector acting for the City Council and may be the engineer or inspector appointed by the Director of Public Works.

Code of Federal Regulations (CFR) means an annual document of the United States government that codifies federal agency rules, regulations, and guidelines.

Commercial Establishment means any building used to conduct private or public wholesale or retail transactions involving the exchange of services, commodities, or financial business. Such facilities normally produce domestic wastes, but may also produce some industrial wastes.

Connector means any owner or renter of any premises connected to the sewer system.

Contractor means an individual firm, corporation, partnership, or association duly licensed by the State of California to perform the type of work to be done under the permit.

Control Authority means the City of El Paso de Robles.

Conventional Pollutants means pollutants which are usually found in domestic and/or commercial wastes such as suspended solids, biological oxygen demand, and oil and grease of animal or vegetable origin.

Cooling Water means the blow-down or bleed water from cooling towers, which is water discharged from any use, such as air conditioning, cooling, or refrigeration, during which the only pollutant added to the water is heat.

County means the County of San Luis Obispo in the State of California.

Director means the Public Works Director of the City of El Paso de Robles or his or her authorized representative.

Discharge means to pump, place, deposit, permit, or cause to flow.

Domestic Septage is the liquid or solid material removed from a septic tank, cesspool, or similar treatment works that holds only domestic sewage. Domestic Septage does not include liquid or solid material removed from these systems that receives either commercial process Wastewater or industrial Wastewater and does not include grease removed from a restaurant grease trap.

Domestic Wastes means liquid Waste and solid waterborne Wastes derived from the ordinary living processes of humans of such character as to permit satisfactory disposal, without special treatment, into the public sewer or by means of a private disposal system.

Dwelling Unit means a single unit providing complete, independent living facilities for one or more persons, which may include permanent provisions for living, sleeping, eating, cooking, and sanitation.

Enforcement Response Plan means the plan prepared by the Director in compliance with the requirements of 40 CFR 403.8(f)(5) and Section 14.10.600 of this Municipal Code describing the process for investigating and responding to instances of Industrial User noncompliance.

EPA or Environmental Protection Agency means the United States Environmental Protection Agency.

Existing Source means any source of discharge, the construction or operation of which commenced prior to the EPA's publication of proposed Categorical Pretreatment Standards, which will be applicable to such sources if the standard is thereafter promulgated in accordance with Section 307 of the Act.

Garbage means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food and from the handling, storage, and sale of produce.

General Permit means a permit issued by the Director to Significant Industrial Users (SIUs) within the same category that have similar types of operations, generate similar types of wastes, and are subject to the same effluent monitoring and restrictions.

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

Hauled Waste means Domestic Septage, as defined above, commercial Wastewater pumped from a septic tank that is similar in character to domestic Waste, high organic strength winery or brewery Waste, and recreational vehicle Waste pumped from a septic tank.

Hazardous Waste means a waste defined in Section 66261.3 of Title 22 of the California Code of Regulations. "Hazardous waste" includes extremely hazardous waste, acutely hazardous waste, RCRA hazardous waste, non-RCRA hazardous waste, and special waste.

Health Department means a state or county health department.

Indirect Discharge means the introduction of pollutants into the Publicly Owned Treatment Works (POTW) from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.

Industrial User (IU) means a User that is a source of indirect discharge that has the potential to discharge non-domestic Wastewater to the POTW, or a commercial, industrial, or government User that has a sewer connection for domestic Wastewater discharge only.

Industrial Wastewater means any non-domestic liquid or solid wastes from any commercial, industrial, or institutional establishment. Industrial Waste is distinct from domestic Waste.

Infectious Waste means Waste which contains pathogenic organisms that can invade the tissues of the body and cause disease.

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

Interference means any discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits, disrupts, or damages 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 National Pollutant Discharge Elimination System (NPDES) permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA) including Title II, more 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 SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

Lateral means a privately owned, operated, and maintained sewer line connecting a building or private facility to the City's main sewer. The lateral includes that portion of the line located within the public right-of-way.

Leach Field means a conventional septic effluent treatment and absorption system which consists of a network of perforated pipes buried in gravel-filled trenches.

Local Limit means the 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).

Main Sewer means a public sewer designated to accommodate more than one lateral sewer, in which all owners of abutting properties have equal rights, that is controlled by public authority.

Medical Waste means 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.

Monthly Average means the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Monthly Average Limit means 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.

NPDES Permit or National Pollutant Discharge Elimination System Permit means the regulatory agency document issued by either the federal or state agency that is designed to control all point source pollutant discharges.

Natural Outlet means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

New Source means:

(1) Any building, structure, facility, or installation, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act, from which there is (or may be) a discharge of pollutants, and to which the proposed Pretreatment Standards would apply if promulgated, provided that:

- (a) The building, structure, facility, or installation is constructed on 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 subsections (1)(b) or (c) of this section, 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 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, contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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

Non-Significant Categorical Industrial User. See definition of Significant Industrial User under this section.

Pass Through means any 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, causes a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.

Permit means any written authorization required pursuant to this Chapter or Chapter 14.10 or any other rule, regulation, or ordinance of the City for the installation of any sewage facilities.

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

pH means the scale of 1 to 14 which measures acidity and alkalinity, 7.0 being neutral, 0 - 6.9 being acidic, and 7.1 – 14 being basic or alkaline. Technically, it is the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in pH units.

Plumbing System means all plumbing fixtures and traps; soil, waste, special waste, and vent pipes; and all sanitary sewer pipes within a building and extending to the building sewer connection three (3) feet outside the building wall.

Pollutant means 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).

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in Wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the City's sewerage system. The reduction or alteration can be obtained by physical, chemical, or biological processes, or by process changes, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

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

Pretreatment Standard or Standards means any Prohibited Discharge Standard, Categorical Pretreatment Standard, or Local Limit.

Private Sewer means a sewer serving a private developed property that accommodates one or more buildings and is connected with a public sewer main.

Private Wastewater Disposal System means a water-tight receptacle that receives the discharge of Wastewater, designed and constructed so as to retain solids, digest organic matter through a period of detention, and allow the liquids to discharge into the soil outside of the tank into a leach field.

Process Wastewater means any water, which during manufacturing or processing, comes into direct contact with, or results from the production or use of, any raw material, intermediate product, finished product, by-product, or waste product.

Prohibited Discharge Standards or Prohibited Discharges means absolute prohibitions against the discharge of certain substances. These prohibitions appear in Sections 14.10.040 – 14.10.060 of Chapter 14.10.

POTW or Publicly Owned Treatment Works is defined by the Act and includes any devices and systems owned by the City and used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances that convey Wastewater to a treatment plant. The term also means the municipality as defined in Section 502(4) of the Act, which has jurisdiction over the indirect discharges to, and the discharges from, such a treatment works.

RCRA means the federal Resource Conservation and Recovery Act, codified at 42. U.S.C. §6901 *et seq.*, and its implementing regulations.

Septage means Domestic Septage, as defined above.

Sewage means Wastewater.

Sewage System or Sewerage System means all City facilities for the collection, pumping, treatment, and disposal of sewage.

Sewer means a pipe or conduit that transports Wastewater, into which storm, surface, and ground waters are not intentionally admitted.

Shall means mandatory.

Significant Industrial User (SIU) means any User of the City's sewerage system that is:

- (1) A User subject to Categorical Pretreatment Standards; or
- (2) A User that:
 - (a) Discharges an average of twenty-five thousand (25,000) gallons or more per day of Process Wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blow down Wastewater); or
 - (b) Contributes a process Waste stream which makes up five (5) percent or more of the average daily dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) Is classified as a categorical industry as regulated under Federal Categorical Pretreatment Standards; or
 - (d) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.
- (3) The City may determine that a User subject to Categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a SIU on a finding that the User never discharges more than 100 gallons per day (gpd) of total categorical Wastewater (excluding sanitary, non-contact cooling, and boiler blow down Wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - (a) The User, prior to City's finding, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;
 - (b) The User annually submits the certification statement required in Section 14.10.530 [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and
 - (c) The User never discharges any untreated concentrated Wastewater.
- (4) Upon a finding that a User meeting the criteria in subsection 2 of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from a 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.

Slug Load or Slug means any discharge at a flow rate or concentration that could cause a violation of the prohibited discharge standards in Sections 14.10.040 – 14.10.060 of Chapter 14.10. A Slug discharge is any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits, or permit conditions.

Small Brewery means a brewery that meets all of the following criteria:

- (1) Produces less than 15,000 barrels of beer per year; and
- (2) Generates an average of less than 40,000 gallons of Wastewater per month.

Small Winery means a winery that meets all of the following criteria:

- (1) Processes less than 160 tons of grapes per year; and
- (2) Produces less than less than 10,000 cases of wine per year; and
- (3) Produces a cumulative total of less than 26,000 gallons of wine per year.

Standard Industrial Classification (SIC) means the compilation of industrial groups and their economic activities as printed by the U.S. Office of Management and Budget in its Standard Industrial Classification Manual.

Stormwater means any flow occurring during or immediately following any form of natural precipitation.

Street means any public highway, road, street, avenue, alleyway, place, easement, or right-of-way.

Suspended Solids or Total Suspended Solids means the total suspended matter that floats on the surface of, or is suspended in, water, Wastewater, or other liquids and which is removable by laboratory filtering.

User means any person, domestic or non-domestic, who discharges, or causes a discharge of, Waste or Wastewater, directly or indirectly, into the City's sewer system.

Waste includes sewage and any and all other liquid, solid, gaseous, or radioactive substances associated with human habitation, of human or animal origin, or from any production, manufacturing, or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for the purpose of, disposal.

Wastewater means the liquid and water-carried wastes and sewage from residential dwellings; commercial buildings; industrial and manufacturing facilities; and institutions, whether treated or untreated, which are discharged into, or permitted to enter, the City's sewer system.

Wastewater Constituents and Characteristics means the individual chemical, physical, bacteriological and radiological parameters including volume and flow rate and such other parameters that serve to define, classify, or measure the contents, quality, quantity, and strength of Wastewater.

Wastewater Treatment Plant or Treatment Plant means that portion of the POTW that is designated to provide treatment of municipal sewage and industrial Waste.

Water Quality Control Board means the California Regional Water Quality Control Board, Central Coast Region.

Watercourse means a channel in which a flow of water occurs either continuously or intermittently.

Waters of the State means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

CHAPTER 14.10 SEWER USE

Article I Purpose and Policy

- 14.10.010 Application, Purpose, and Scope
- 14.10.020 Establishing Rules and Regulations
- 14.10.030 Definitions

Article II Prohibitions and Limits on Discharges

- 14.10.040 Prohibited Discharge Standards
- 14.10.050 Discharges from Pools/Spas
- 14.10.060 Discharges from Water Softening Units
- 14.10.070 Local Limits
- 14.10.080 National Categorical Pretreatment Standards
- 14.10.090 Limitation on Point of Discharge
- 14.10.100 Dilution Prohibited
- 14.10.105 Bypass

Article III Hauled Waste

- 14.10.110** Discharge of Hauled Waste
- 14.10.120 Allowable Hauled Waste
- 14.10.130 Prohibited Hauled Waste
- 14.10.140 Waste Hauler Permit Required
- 14.10.150 Hauled Waste Permit Conditions
- 14.10.160 Hauled Waste Permit Expiration, Changes, and Renewal
- 14.10.170 Hauled Waste Permit Transfer
- 14.10.180 Hauled Waste Permit Revocation
- 14.10.190 Discharge Location of Hauled Waste
- 14.10.200 Limit on Amount and Type of Hauled Waste Accepted Daily
- 14.10.210 Hauled Waste Disclosures and Samples

14.10.220 Right to Refuse Hauled Waste

14.10.230 Fees for Discharge of Hauled Waste

14.10.240 Hauled Waste Penalties and Remedies

Article IV Small Winery and Brewery Program

14.10.250 Small Winery and Brewery Program

14.10.260 Small Winery and Brewery Discharge Application and Permit Required

14.10.270 Small Winery and Brewery Permit Requirements

14.10.280 Small Winery and Brewery Surcharge Calculation

Article V Industrial Wastewater Discharge Permits

14.10.290 Industrial Wastewater Discharge Permit Required

14.10.300 Wastewater Survey

14.10.310 Permit Application

14.10.320 Permit Conditions

14.10.330 Permit Duration

14.10.340 Permit Modification

14.10.350 Permit Transfer

14.10.360 Permit Revocation

Article V Pretreatment

14.10.370 Pretreatment of Wastewater

Article VI Compliance Monitoring

14.10.380 Right to Inspect and Monitor

Article VII Reporting Requirements

14.10.390 Baseline Monitoring Reports

14.10.400 Compliance Schedule

14.10.410 Reports on Compliance with Categorical Pretreatment Standard Deadline

14.10.420 Periodic Compliance Reports

14.10.430 Reports of Changed Conditions

14.10.440 Reports from Unpermitted Users

- 14.10.450 Accidental Discharge and Slug Control Plan
- 14.10.460 Notification of the Discharge of Hazardous Waste
- 14.10.470 Representative Wastewater Samples
- 14.10.480 Analytical Requirements
- 14.10.490 Sample Collection
- 14.10.500 Notice of Violation/Repeat Sampling and Reporting
- 14.10.510 Date of Receipt of Reports
- 14.10.520 Recordkeeping
- 14.10.530 Certification Statements
- 14.10.540 Confidential Information

Article IX Public Participation

- 14.10.550 Publication of Industrial Users in Significant Noncompliance

Article X Fees, Rates, and Charges

- 14.10.560 Charges and Fees

Article XI Liability and Enforcement

- 14.10.570 Liability
- 14.10.580 Public Nuisances
- 14.10.590 Violations
- 14.10.600 Enforcement Response Plan
- 14.10.610 Notice of Violation
- 14.10.620 Consent Orders
- 14.10.630 Compliance Orders
- 14.10.640 Cease and Desist Orders
- 14.10.650 Emergency Suspensions
- 14.10.660 Termination of Service
- 14.10.670 Permit Revocation
- 14.10.680 Authority to Disconnect
- 14.10.690 Civil Penalties

14.10.700 Criminal Penalties

14.10.710 Injunction

14.10.720 Show of Cause Hearing

14.10.730 Appeal Hearing

Article XII Affirmative Defenses to Discharge Violations

14.10.740 Upset

14.10.750 Prohibited Discharge Standards

Article XIII – Miscellaneous Provisions

14.10.760 Severability

Article I Purpose and Policy

14.10.010 Application, Purpose, and Scope

A. This Chapter shall apply to all Users of the Publicly Owned Treatment Works (POTW) of the City of El Paso de Robles (City).

B. This Chapter authorizes the issuance of Waste Hauler permits for the discharge of allowable Hauled Waste and wastewater discharge permits to Industrial Users (IUs), provides for monitoring, compliance, and enforcement activities, and requires Significant Industrial User (SIU) reporting.

C. This Chapter sets forth uniform requirements for IUs of the POTW and enables the City to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code [Act] Section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations (CFR) Part 403). The objectives of this Chapter are to:

1. Prevent the introduction of pollutants into the POTW that will interfere with its operation;
2. Prevent the introduction of pollutants into the POTW that will pass through the system, inadequately treated, into receiving waters, or otherwise be incompatible with the system;
3. Protect POTW personnel who may be affected by Wastewater and sludge in the course of their employment and to protect the general public;
4. Promote reuse and recycling of industrial Wastewater and sludge from the POTW;
5. Enable the City to comply with its NPDES permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the POTW is subject.

D. Conflict with State Law. Any provision in this Chapter that conflicts with the provisions of the California Health and Safety Code, Streets and Highways Code, Government Code, or any other California Code shall be automatically superseded by the provisions of said Code until such time as this Chapter can be revised.

14.10.020 Establishing Rules and Regulations

Except as provided otherwise, the Director of Public Works shall administer, implement, and enforce the provisions of this Chapter. The Director is hereby authorized to establish any rules and regulations necessary for the enforcement of this Chapter, and may delegate and appoint employees of the City to act on his or her behalf.

14.10.030 Definitions

Terms in this Chapter shall have the meanings set forth in Section 14.08.040 of Chapter 14.08.

Article II Prohibitions and Limits on Discharges

14.10.040 Prohibited Discharge Standards

A. No User shall contribute or cause to be contributed, directly or indirectly, any pollutant or Wastewater that will cause Pass Through or Interference at the POTW whether or not the User is subject to national Categorical Pretreatment Standards or any other national, state, or local Pretreatment Standards or Requirements.

B. Specific Prohibitions. No User shall contribute or cause to be contributed the following substances to the POTW:

1. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause a fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW and/or cause acute worker health and safety problems to its personnel or to the operation of the system;
2. Any Wastewater or Waste that has a closed-cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21; Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, or xylene;
3. Any Waste having a pH less than 6 or more than 9 or having any corrosive property capable of causing damage or hazards to structures, equipment, and/or POTW personnel. Prohibited materials include, but are not limited to, acids, caustics, sulfides, concentrated chloride and fluoride compounds, and substances that will react with water to form acidic products;
4. Solid or viscous Wastes in amounts which will, or may, obstruct the flow in the City sewer or POTW resulting in interference with the proper operation of the City's sewage system. Prohibited materials include, but are not limited to, fats, oils or grease of animal or vegetable origin, debris, garbage with particles greater than one-half inch in any dimension, manure, straw, bedding materials, hair, sand, concrete or concrete slurry, stone or marble dust, metal shavings, grass clippings, cut roots, spent grains or hops, wine processing Waste, paper Waste, wood, plastics, rags, tar, asphalt residues, and mud and glass grinding or polishing Wastes;
5. Any pollutants, including oxygen-demanding pollutants (e.g., BOD) released at a slow rate and/or pollutants with a concentration that either alone, or by interaction with other pollutants, will cause Interference with the POTW;
6. Any Wastewater having a temperature greater than one hundred fifty (150) degrees Fahrenheit (sixty-six (66) degrees Celsius) into the sewer, or which will inhibit biological activity in the treatment plant resulting in Interference, but in no case Wastewater that causes the temperature at the introduction of the treatment plant to exceed eighty (80) degrees Fahrenheit (twenty-seven (27) degrees Celsius);
7. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through;
8. Any Wastewater or Wastes containing oil and grease such that the discharge results in a stoppage, plug, breakage, significant obstruction to flow, or any other damage to or increased maintenance of the POTW. No User shall discharge oil and grease which results in Pass Through and/or Interference.
9. Pollutants that 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;
10. Noxious or malodorous solids, liquids, or gases, or other Wastewater, which, either singularly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life or preventing entry into sewers for maintenance or repairs;
11. Hazardous Waste. All Users are prohibited from discharging Hazardous Waste;

12. Wastewater that imparts color not removable by the treatment process, including but not limited to, inks, dyes, and tanning solutions, which consequently imparts color to the treatment plant's effluent;
13. Wastewater containing any radioactive wastes or isotopes, except in compliance with applicable state and federal regulations;
14. Any trucked or Hauled Waste, except at City-designated discharge points, with City pre-approval, and in accordance with Article III of this Chapter;
15. Infectious or medical wastes from clinics, out-patient clinics, medical, and dental offices, and other similar clinics and offices; pathologic specimens; disposable hypodermic needles, syringes, and associated articles (whether ground or not);
16. Any Wastewater containing toxic substances in sufficient quantity, either singularly or by interaction with other substances, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or exceed the limitations set forth in the Categorical Pretreatment Standards or in this section. A toxic pollutant shall include, but need not be limited to, any pollutant identified in Section 307(a) of the Federal Clean Water Act;
17. Any Wastewater which is capable of causing, either alone or by interaction with other substances, the POTW effluent or any other product of the treatment process, residuals, or biosolids to be unsuitable for reclamation or reuse or to interfere with the reclamation process;
18. Detergents, surface-active agents, or other substances which might cause excessive foaming in the POTW;
19. Discharges from water softening per section 14.10.060.
20. Prohibited discharges from garbage grinders are as follows:
 - a. Improperly shredded garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under normal flow conditions in the public sewers or with any particle greater than one-half inch in any dimension are not allowed.
 - b. Paper products, inert materials, garden refuse or Waste products resulting from the handling, storage, and sale of fruit and vegetables in wholesale and retail produce establishments, and wastes from entities engaged in the preparation, processing, or preservation of food not intended primarily for immediate consumption.
 - c. The City reserves the right to prohibit the use of garbage grinders in commercial applications if this Waste creates excessive problems in the POTW. Acceptable discharges from garbage grinders are as follows:
 - i. Wastes generated in preparation of food in a residence;
 - ii. Where a nonresidential IU has an existing nonresidential garbage grinder or a proposed new grinder and has approval for that specific use from the City. Such grinders must be kept in proper working order.

21. Rain, stormwater, surface water, groundwater, seepage, roof runoff, street or yard drainage, subsurface drainage, ponds or lawn sprays, or the uncontaminated water or water added for the purpose of diluting wastes which exceed maximum concentration limitations;

22. It shall be unlawful to discharge to any storm drain or natural outlet any Wastewater derived from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, including domestic sewage, and industrial wastewater petroleum products, or otherwise polluted water;

23. Outdoor connections, drains, and/or wash racks connected to the City sewer shall be covered and bermed to prevent the inflow of stormwater and shall be equipped with sand-oil interceptor approved by the Director.

14.10.050 Discharges from Pools/Spas

A. The contents of swimming pools and/or spas (including filter backwash from swimming pools and/or spas) shall not be discharged into the POTW without notifying the Director. Such approved discharge must be accomplished in the manner specified herein:

1. The contents of a salt water swimming pool (including electrolytic cell backwash) shall not be discharged to the sanitary sewer, storm drain system, or natural waterway.

2. The water shall be discharged by pumping which shall not exceed the capacity of the sewer lateral or city main.

3. Each swimming pool discharging to the POTW shall be equipped with an indirect waste connection to preclude any possibility of a backflow of sewage into the swimming pool or piping system.

14.10.060 Discharges from Water Softening Units

A. New installations of residential self-regenerating water softeners (the type to which salt is added) are prohibited.

B. New residential construction shall not include plumbing loops to facilitate water softener installation.

C. If an existing water softener unit must be replaced, it must be replaced with a system that does not discharge salt brine, such as a portable exchange tank system.

D. Discharges from existing water softening units. Portable exchange water softening systems should be used instead of on-site regeneration water softening units. Discharges from commercial, industrial, and residential on-site regeneration water softening units must comply with the following:

1. Commercial or Industrial Users discharging water-softening brine shall not exceed the limits listed in Section 14.10.070(B) of this Chapter. A commercial operation not in compliance with the Local Limits shall be deemed an IU and may be required to obtain an industrial wastewater discharge permit.

14.10.070 Local Limits

A. The Director is authorized to establish local limits pursuant to 40 CFR 403.5(c).

B. The following pollutant limits are established to protect against Pass Through and Interference. No SIU or other permitted IUs shall discharge Wastewater that contains pollutants exceeding the following limits, except as allowed in section 14.10.250:

Constituent	Concentration Limit
Ammonia	35 mg/L
Boron	0.7 mg/L
Cadmium	1.2 mg/L
Chromium	4.4 mg/L
Copper	0.36 mg/L
Cyanide	1.3 mg/L
Nickel	1.7 mg/L
Arsenic	0.29 mg/L
Selenium	0.032 mg/L
Zinc	0.47 mg/L
Sulfate	200 mg/L
Total Dissolved Solids (TDS)	1115 mg/L
Sodium	255 mg/L
Chloride	262 mg/L
Biochemical Oxygen Demand (BOD)	360 mg/L
Total Suspended solids (TSS)	360 mg/L
Oil and Grease	100 mg/L
Silver	1.4 mg/L
Lead	11 mg/L
Mercury	0.23 mg/L

Constituent	Concentration Limit
Molybdenum	120 mg/L
pH	6 - 9

(All concentrations for metallic substances are for “total” metal unless indicated otherwise.)

C. Unless otherwise stated in an individual discharge permit, the uniform limits shall apply to all dischargers.

D. The above limits apply at the point where the Wastewater is discharged to the POTW. The Director may impose mass limitations in addition to the concentration-based limitations above.

E. Limitations on Wastewater strength in this Chapter may be supplemented with more stringent limitations if:

1. The Director determines that the limitations and prohibitions in this Chapter or other City Codes or City Council resolutions may not be sufficient to protect the operation of the POTW; or
2. The Director determines that the limitations and prohibitions in this Chapter or other City Codes or City Council resolutions may not be sufficient to enable the POTW to comply with water quality standards or effluent limitations specified in the City's POTW NPDES permit.

F. When the Director determines that a User is contributing any of the substances in Section 14.10.040 in such amounts as to interfere with the operation of the POTW, the Director may:

1. Advise the User of the contribution's impact on the POTW;
2. Develop effluent limitations for the User;
3. Place limits on the rate and time of discharge or requirements for flow regulation and equalization;
4. Require Pretreatment of discharge before it is discharged to POTW; or
5. Take any other action necessary to eliminate the interference.

G. The Director may incorporate BMPs in wastewater discharge permits to implement local limits and the requirements in Section 14.10.040.

H. Where a User utilizes all or a portion of its domestic water supply from a source other than the City of Paso Robles' potable water, the City may require additional laboratory testing of any constituents of concern that may be discharged to the POTW. This testing shall be performed by a State of California certified laboratory, at a frequency and duration determined by the City, and solely at the User's expense.

14.10.080 National Categorical Pretreatment Standards

A. National Categorical Pretreatment Standards shall apply in addition to the prohibited discharge standards cited in Sections 14.10.040-14.10.060 and the Local Limits cited in Section 14.10.070(B) of this Chapter.

B. All applicable Federal Pretreatment Standards that specify quantities or concentrations of pollutants that may be discharged by a specific industrial category will be enforced by the City as required by Section 309(e) and (f) et seq. of the Federal Clean Water Act.

C. Upon promulgation of the Federal Categorical Pretreatment Standards for a particular industrial category, the federal standard, if more stringent than limitations and prohibitions imposed under this Chapter, shall immediately supersede the limitations imposed under this Chapter.

D. When Wastewater subject to a Categorical Pretreatment Standard is mixed with Wastewater not regulated by the same standard, the Director shall impose an alternate limit in accordance with 40 CFR 403.6(e).

14.10.090 Limitation on Point of Discharge

A. No User or IU shall discharge any substances directly into a manhole or other opening in a public sewer, other than through an approved building sewer, without the Director's prior approval.

B. Wastes prohibited by this Chapter shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must be permanently sealed or discharged to the IU's pretreatment facility before connecting with the POTW.

14.10.100 Dilution Prohibited

No User or IU shall ever increase the use of potable or process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with any specific discharge limitation or requirement.

14.10.105 Bypass

A. For the purposes of this section:

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

B. A User may allow any bypass to occur which does not cause Pretreatment Standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections 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 Director, at least ten days before the date of the bypass, if possible.
2. A User shall provide notice to the Director, by telephone or electronic mail, of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four

(24) hours of the time it becomes aware of the bypass. The User shall also provide a written submission within five (5) days of the time it 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; the anticipated duration of the bypass, if it has not been corrected; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director may waive the written report on a case-by-case basis if the oral report is received within twenty-four hours.

D. Bypass.

1. Bypass is prohibited, and the Director 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 that occurred during a normal period of equipment downtime or preventive maintenance; and

c. The User submitted notices as required under subsection C of this section.

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

Article III Hauled Waste

14.10.110 Discharge of Hauled Waste

A. No User shall discharge or cause to be discharged to a private lateral, public sewer, or POTW any Hauled Waste except as authorized by this Article.

B. Hauled Waste shall be discharged into the POTW only at locations designated by the Director, with the Director's prior consent.

14.10.120 Allowable Hauled Waste

Allowable Hauled Waste which may be discharged into the POTW includes:

A. Domestic Septage as defined in Chapter 14.08, Section 14.08.040;

B. Commercial Wastewater pumped from a septic tank that is similar in character to domestic Waste, with prior written approval from the Director;

C. High-strength winery or brewery Waste pumped from a septic tank of industrial origin, with prior written approval from the Director; and

D. Recreational vehicle wastes pumped from a septic tank.

14.10.130 Prohibited Hauled Waste

Hauled Waste that does not conform to Section 14.10.120 or that violates Section 14.10.040 of this Chapter or any other requirements established by the City is prohibited. Additionally, the following types of Hauled Waste are prohibited:

- A. Hauled Waste from grease interceptors;
- B. Non-domestic Wastewater from commercial kitchens and processes or Industrial Users;
- C. Wastewater from portable toilets or Type III marine sanitation devices; and
- D. Wastewater directly from individual Recreational Vehicles.

14.10.140 Hauled Waste Permit Required

A. It shall be unlawful for any User to discharge Hauled Waste to the POTW without first obtaining a waste hauler permit from the City. Any person wishing to discharge Hauled Waste to the POTW must complete a waste hauler permit application and submit the following supplementary information:

1. Proof of workers' compensation insurance, general liability insurance, and auto liability insurance, in the form and amounts specified by the City.
2. Proof that trucks have a current and valid County of San Luis Obispo Health Permit.

B. Any person granted a waste hauler permit must thereafter submit proof of insurance and County of San Luis Obispo Health Permit annually.

C. The Director will evaluate a submitted waste hauler permit application and may require additional information. Incomplete or inaccurate applications will not be processed and will be returned to the waste hauler for revision.

D. After evaluation and acceptance of a waste hauler permit application, the Director may issue a waste hauler permit subject to the terms and conditions provided herein.

E. Denial of a waste hauler permit application may be appealed pursuant to the procedures in Section 14.10.730.

14.10.150 Hauled Waste Permit Conditions

Waste hauler permits shall be subject to all provisions of this Chapter and all other applicable regulations, including any charges and fees established by the City. Every permitted waste hauler discharging Hauled Waste to the POTW must comply with the conditions and contents of its waste hauler permit, which shall include, but are not limited to:

1. The type of Hauled Waste permitted to discharge;
2. The hauler's obligation to submit Hauled Waste disclosures;
3. The hauler's obligation to timely pay to the City its Hauled Waste discharge fees, pursuant to Section 14.10.230;
4. The waste hauler agrees to the liability and indemnification provisions contained in Section 14.10.570, including for any and all damage and expenses that may be suffered by reason of any or all acts done by the waste hauler and/or its employees in the course of the hauling and discharge of Hauled Waste; and

5. The waste hauler will, in the event of spills or leakage of Hauled Waste on the City's property caused by the waste hauler's actions or faulty equipment, appropriately clean the area involved.

14.10.160 Hauled Waste Permit Expiration, Changes, and Renewal

A. Waste hauler permits shall be issued for a specified term, not to exceed three (3) years from the effective date of the permit. If the waste hauler does not notify the City that it wishes to renew the permit 30 days prior to the expiration of the permit, the permit will expire, and the waste hauler must submit a new application for a waste hauler permit.

B. The terms and conditions of a waste hauler permit shall be subject to modification and changes by the Director during the permit term for good cause, including but not limited to, the following reasons:

1. To incorporate new or revised federal, state, or local standards or requirements;
2. To correct typographical errors in the waste hauler permit;
3. To address misrepresentations or omissions of relevant facts in the waste hauler permit application.

C. A waste hauler shall be notified, in writing, of any proposed changes to the permit at least thirty (30) days prior to the effective date of the change.

14.10.170 Hauled Waste Permit Transfer

Waste hauler permits are issued to a specific hauler for a specific operation. The permit may not be reassigned, transferred, or sold to a new owner or new hauler. The City shall be immediately notified of any change in ownership or operations of a waste hauler, and the City may require the submission of a new waste hauler permit.

14.10.180 Hauled Waste Permit Revocation

The Director may revoke any waste hauler permit if the waste hauler is found to be in violation of the permit conditions, this Chapter, or any state or federal laws and regulations. Before revoking a permit, the Director shall issue to the waste hauler a Notice of Violation pursuant to the procedures set forth in Section 14.10.610. If the waste hauler does not correct the violation within the time period specified in the Notice, the Director shall revoke the permit. A waste hauler may appeal revocation of its permit pursuant to the procedures specified in Section 14.10.730.

14.10.190 Discharge Location of Hauled Waste

A. Unless instructed otherwise, allowable Hauled Waste shall be discharged only into the POTW at the septage receiving station located at:

Paso Robles Wastewater Treatment Plant
3200 Sulphur Springs Road
Paso Robles, CA, 93446

Hauled Waste may be discharged at this location on the days and hours specified in the waste hauler permit.

B. The Director may designate an alternative location for discharging Hauled Waste in emergency conditions or for certain haulers of high-strength Hauled Waste.

C. The discharge of Hauled Waste into any City facility, manhole, or other location not approved by the Director shall be considered unlawful and the person responsible for such discharge shall be subject to the penalties and remedies set forth in Article XI of this Chapter.

14.10.200 Limit on Amount and Type of Hauled Waste Accepted Daily

The Director has the right to specify the type of Hauled Waste allowed to be discharged, the location, days, and hours that Hauled Waste is accepted, and the total amount of Hauled Waste that can be discharged daily into the POTW. The Director has the right to accept or reject Hauled Waste based on these specifications and the daily operation and capacity of the wastewater treatment plant and septage receiving station.

14.10.210 Hauled Waste Disclosures and Samples

A. Each permitted waste hauler discharging Hauled Waste must first submit at the designated location of the septage receiving station a completed Hauled Waste Disclosure which lists the source(s) and nature of the Hauled Waste. The Hauled Waste Disclosure shall be on a form provided by the City.

B. The City has the right to sample any load of Hauled Waste to be discharged at the septage receiving station. If the Hauled Waste is found to be in violation of any state, federal or city law or regulation, the waste hauler shall not be permitted to discharge the Hauled Waste load. The Director shall issue a Notice of Violation as specified in Section 14.10.610. The waste hauler may be subject to future testing to determine compliance; upon such additional testing, a finding of violation may result in permit revocation. A waste hauler that attempts or permits the discharge of prohibited Hauled Waste into the POTW shall be liable for any resulting expense, loss, or damage to the City's wastewater system as set forth in Section 14.10.240.

C. At the time of discharge, the waste hauler will receive a receipt issued by the City.

14.10.220 Right to Refuse Hauled Waste

The City has the right to automatically refuse to accept the discharge of any prohibited Hauled Waste set forth in Section 14.10.130. Additionally, if City staff determines that the Hauled Waste could cause operational or maintenance problems to City POTW facilities, be detrimental to the health of POTW staff, or violate or cause violations of the City's NPDES permit or any other city, state, or federal law or regulation, the City may refuse to accept the Hauled Waste discharge and may revoke the Hauled Waste permit as set forth in Section 14.10.180.

14.10.230 Fees for Discharge of Hauled Waste

Waste haulers discharging allowable Hauled Waste to the POTW shall pay a discharge fee as established in Section 14.10.560. In addition to those costs identified in Section 14.10.560, the discharge fee may be based on the volume of Hauled Waste discharged.

14.10.240 Hauled Waste Penalties and Remedies

Unless otherwise specified in this Article, the procedures, penalties, and other remedies for enforcement set forth in Article XI of this Chapter shall apply to waste haulers. The requirements for discharging Hauled Waste set forth in this Article III are in addition to, and not in place of, any other requirements or permits that may apply to waste haulers under this Chapter or other city, state, or federal law.

Article IV Small Winery and Small Brewery Program

14.10.250 Small Winery and Brewery Program

Starting July 1, 2018, the City may allow a limited number of Small Wineries and Small Breweries (as both are defined in 14.08.040) to pay a surcharge on Process Wastewater that exceeds the Local Limits established in Section 14.10.070(B) for Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS) in lieu of requiring Pretreatment for these constituents. This program will remain in place as long as the POTW has adequate capacity in its facility to treat such Waste. The Director has the right to suspend or terminate the program based on the daily operation and capacity of the POTW. Permits issued under this program shall be subject to all provisions of this Chapter and all other applicable regulations, including any charges and fees established by the City.

14.10.260 Small Winery and Brewery Discharge Application and Permit Required

Any Small Winery or Small Brewery that discharges Wastewater to the POTW and wishes to participate in the program set forth in this Article IV must complete a Small Winery/Small Brewery Permit Application. Applications will be reviewed by the Director. Those Small Wineries and Small Breweries whose applications are approved for participation in the program will be issued a permit.

14.10.270 Small Winery and Brewery Permit Requirements

Program participants will be issued a general permit to discharge Process Wastewater to the POTW. Permits shall be subject to all provisions of this Chapter and all other applicable regulations, including any charges and fees established by the City. Permit requirements may include, but are not limited to:

1. Requirements for effluent monitoring;
2. A limit on the amount of wine or beer, as applicable, produced to be eligible to participate in the program;
3. An agreement to pay surcharge fees;
4. Acknowledgment of the City's right to suspend or terminate the program described in this Article IV based on the daily operation and capacity of the POTW.

14.10.280 Small Winery and Brewery Surcharge Calculation

The amount of the surcharge for each Small Winery and Small Brewery participating in the program will be determined by comparing the BOD and TSS strength of a representative sample of the Process Wastewater from the Small Winery or Small Brewery, as applicable, to the City's Local Limit for BOD. This difference shall be multiplied by the then-current per unit wastewater user rate specified in Section 14.16.020.

Article V Industrial Wastewater Discharge Permits

14.10.290 Industrial Wastewater Discharge Permit Required

A. The following IUs shall be required to obtain the type of discharge permit described below prior to discharging any Wastewater to the POTW:

1. An SIU must obtain a SIU discharge permit;
2. An IU whose discharge may potentially have an adverse impact on the POTW, as determined by the Director;
3. SIUs that are substantially similar may be issued a General Permit for that group or category of SIU; and

4. An IU that prepares or serves food whose discharge of grease may potentially have an adverse impact on the POTW, as determined by the Director.

B. The City will require IUs with high salinity discharges (e.g., commercial laundry facilities, hotels) to implement BMPs or Pretreatment to comply with this Chapter.

14.10.300 Wastewater Survey

When requested by the Director, an IU shall submit information on the nature and characteristics of its Wastewater by completing a Wastewater survey prior to being allowed to discharge to the POTW. The Director may periodically require IUs to update their information. Failure to complete this survey shall be grounds for terminating Wastewater service to the IU and shall be considered a violation of this Chapter.

14.10.310 Permit Application

A. All IUs required to obtain a wastewater discharge permit shall complete and file an industrial wastewater discharge permit application with the City within thirty (30) days of receiving a notice to apply. Proposed new IUs shall file their applications at least ninety (90) days prior to connection to the POTW.

B. In support of its application, the Applicant must submit all supporting documentation requested in the permit application form issued by the City.

C. The Director will evaluate the data furnished by the IU and may require additional information. Incomplete or inaccurate applications will not be processed and will be returned to the IU for revision. After evaluation and acceptance of the information furnished, the Director may issue an industrial wastewater discharge permit subject to the terms and conditions provided herein.

D. All industrial wastewater discharge permit applications, IU reports, and certification statements must be signed by an Authorized Representative of the IU and contain the certification statement set forth in Section 14.10.530(A).

E. A User must notify the City of any change in the designation of its Authorized Representative by submitting a new written authorization, which notification must be prior to, or concurrent with, the submission of any reports required to be signed by the Authorized Representative.

F. A denial of a permit application may be appealed pursuant to the procedures in Section 14.10.730.

14.10.320 Permit Conditions

Industrial wastewater discharge permits shall be expressly subject to all provisions of this Chapter, all other applicable regulations, and payment of IU charges and fees as required by the City. The permit conditions shall be uniformly enforced in accordance with this Chapter and applicable state and federal regulations. Permit contents and requirements may include, but are not limited to, the following:

1. A statement that indicates the industrial wastewater discharge permit issuance date, expiration date, and effective date;
2. A statement that the industrial wastewater discharge permit is nontransferable;
3. Effluent limits, which may include numerical limits or 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 Practices to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;
5. Requirements to control Slug discharges, if determined by the Director to be necessary;
6. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
7. 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;
8. Requirements for the development and implementation of spill control plans or other special conditions including Best Management Practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
9. Development and implementation of Waste minimization plans to reduce the amount of pollutants discharged to the POTW;
10. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
11. A statement that compliance with the industrial 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 industrial wastewater discharge permit;
12. Other conditions as deemed appropriate by the Director to ensure compliance with this Chapter and state and federal laws, rules, and regulations; and
13. 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.

14.10.330 Permit Duration

Permits shall be issued for a specified term, not to exceed five (5) years from the effective date of the permit. A permit may be issued for a term of less than five (5) years or may be stated to expire on a specific date.

14.10.340 Permit Modification

A. The Director may modify any industrial wastewater discharge permit after issuance 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 IU's operation, processes, or wastewater volume or character since the time of the industrial wastewater discharge permit issuance;

3. To add information indicating that the permitted discharge poses a threat to the City's POTW, personnel, or the receiving waters;
4. Due to a violation of any terms or conditions of the industrial wastewater discharge permit;
5. Due to misrepresentations or failure to fully disclose all relevant facts in the industrial wastewater discharge permit application or in any required reporting;
6. To correct typographical or other errors in the industrial wastewater discharge permit.

B. The IU may request a waiver from the Director for monitoring for a pollutant neither present in nor expected to be present in its effluent. An IU requesting such a waiver must submit supporting documentation to the Director, including, but not limited to, sampling results and other technical factors. Approval of the waiver is subject to conditions set forth in 40 CFR 403.12(e)(2). Any granted waiver shall be noted as a condition in the discharge permit.

C. An IU shall be informed of any proposed changes in its permit at least thirty (30) calendar days prior to the effective date of the change.

14.10.350 Permit Transfer

A. Industrial wastewater discharge permits are issued to a specific IU for a specific operation. An industrial wastewater discharge permit may not be assigned, transferred, or sold to a new owner or a different IU, nor will it apply to different premises, or a new or changed operation. A permittee shall notify the Director, in advance and in writing, of any proposed sale or transfer. Prior to any transfer, the transferee shall file an application for a new industrial wastewater discharge permit, with all required information, so that its permit may take effect immediately upon transfer.

B. Industrial wastewater discharge permits shall be void upon cessation of operations or transfer of business ownership. All industrial wastewater discharge permits issued to an IU are void upon the issuance of a new industrial wastewater discharge permit to that IU.

14.10.360 Permit Revocation

A. An industrial wastewater discharge permit may be revoked for violation of permit conditions or provisions of this Chapter. Violations include, but are not limited to, the following:

1. Failure to notify the Director of significant changes to the IU's operations, systems, or Wastewater prior to the changed discharge;
2. Misrepresentation or failure to fully disclose all relevant facts in the industrial wastewater discharge permit application;
3. Falsifying self-monitoring reports and certification statements;
4. Tampering with monitoring equipment;
5. Refusing to allow the Director timely access to facility premises and records;
6. Failure to meet effluent limitations;
7. Failure to pay fines or any required fees or surcharges associated with a permit;

8. Failure to provide advance notice of the transfer of business ownership of a permitted facility;
9. Failure to meet compliance schedules; or
10. Violation of any Pretreatment Standard or Requirement, of any terms of the industrial wastewater discharge permit, or of this Chapter.

B. Before revoking a permit, the Director shall issue to the IU a Notice of Violation in accordance with Section 14.10.610. If the IU does not correct the violation within the time period specified in the notice, the Director shall revoke the permit. An IU whose permit has been revoked may appeal the Director's action pursuant to the procedures in Section 14.10.730.

Article VI Pretreatment

14.10.370 Pretreatment of Wastewater

- A. IUs shall provide wastewater treatment as necessary to comply with this Chapter and shall achieve compliance with all applicable Categorical Pretreatment Standards, Local Limits, and prohibitions set out in this Chapter within the time limits specified by the EPA, the state, or the Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained in good working order, at the IU's expense.
- B. In the construction of new facilities, all domestic Wastewater from restrooms, showers, drinking fountains, and other similar sources shall be kept separate from all industrial Wastewater until the industrial Wastewater has passed through any required pretreatment system or device and the industrial Wastewater monitoring facility or stations.
- C. Detailed plans describing such facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before such facilities are constructed. The City's review of such plans and operating procedures shall in no way relieve the IU from the responsibility for modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this Chapter. Any subsequent proposed changes to the pretreatment facilities or methods of operation shall be reported to, and must be approved by, the City prior to the IU's implementation of the changes.
- D. Grease, oil, and sand interceptors, or gravity separating devices, shall be installed when, in the opinion of the Director, they are necessary for the proper handling of Wastewater that contains excessive amounts of grease and oil, silt, or sand. Such interceptors shall not be required for residential dwelling units. All interceptors shall be of a type and capacity approved by the Director in accordance with the California Plumbing Code and shall be of a capacity sufficient to provide the appropriate quality of effluent per this Chapter and shall be located where it would be easily accessible for cleaning and inspection. Interceptors shall be maintained at the owner's expense, in continuous efficient operating condition, and shall provide for the periodic removal of accumulated grease. No such collected grease shall be introduced into any drainage piping or public or private sewer.
1. All car washes, vehicle/equipment wash areas, service stations, and repair facilities shall be required to install a gravity separating device designed to prevent the discharge of sand, silt, oil, and grease to the POTW. Gravity separating devices located outdoors shall be covered and bermed to prevent the inflow of storm water.
 2. Food Service Establishments (FSEs) that serve or prepare food where grease may be introduced into the sewer system shall install an approved grease interceptor to prevent the discharge of fats, oils, and grease (FOG). The grease interceptor shall meet the

specifications of the current California Plumbing Code adopted by the City at the time of plan approval. Interceptors shall be installed in the waste line leading from sinks, drains, or other fixtures where grease may be discharged. A FSE that serves food that is not cooked on-site may be exempt from this requirement, provided its discharge does not violate the discharge prohibitions cited in Sections 14.10.040(B)-14.10.060 and the Local Limits cited in Section 14.10.070(B).

3. Grease interceptors must be pumped/cleaned out completely a minimum of once a year, and more frequently as needed, to prevent FOG from being discharged to the POTW. The City may set a required frequency for such pumping or cleanout.
4. Each business establishment for which a grease interceptor is required shall implement BMPs to reduce grease.
5. If the City finds that a grease interceptor or gravity separating device installed prior to the effective date of this Chapter is incapable of adequately retaining the grease, sand, or oil in the Wastewater effluent, an adequate grease interceptor or gravity separating device shall be installed at the owner's expense within the time period specified in a written notice from the City.

Article VII Compliance Monitoring

14.10.380 Right to Inspect and Monitor

The Director, through a program of inspection and sampling, shall ensure compliance with the provisions of this Chapter, the IU's wastewater discharge permit, and all applicable federal and state laws and regulations. The City may inspect the facilities of any person to ascertain whether the purpose of this Chapter is being met and all prohibitions, limitations, and requirements are being complied with. Upon presentation of proper identification, persons or occupants of premises where Waste or Wastewater is created or discharged shall allow the City ready access, at all reasonable times, to all parts of the premises for the purposes of inspection, sampling, records examination, evidence gathering, or in the performance of any of its other duties. In addition, the City may enter an IU's property at any hour under emergency circumstances involving the City's wastewater system.

1. During inspection and compliance monitoring activities, the City shall observe all reasonable security, safety, and sanitation measures. In addition, the City shall observe reasonable precautionary measures specified by the IU. Where an IU has security measures in force, which would require proper identification and clearance before entry onto the IU's premises, the IU shall make necessary arrangements with its security personnel so that upon presentation of suitable identification, City personnel will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.
2. The City may sample the Wastewater from any IU or require the IU to sample the Wastewater at the IU's own expense to ascertain whether the intent of this ordinance is being met and that the IU is complying with all requirements.
3. The City shall have the right to set up on the IU's property such devices as are necessary to conduct sampling, inspection, compliance monitoring, and/or metering operations.

4. The Director may require the IU to furnish and install, at the IU's own expense, a control manhole in the building sewer or monitoring equipment as necessary and of a design and location approved by the City to facilitate inspection, sampling, and flow measurements. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the IU at its own expense. All devices used to measure Wastewater flow and quality shall be calibrated at the frequency described in the industrial wastewater discharge permit to ensure their accuracy. The IU shall provide the City with unrestricted access to the sampling station at all times.
5. If the City requires or the IU chooses to install monitoring equipment, the equipment shall be calibrated as recommended by the manufacturer and approved by the City. This must be done by qualified personnel. A photocopy of the calibration results and/or certificate shall be sent to the City.
6. Where pretreatment or monitoring facilities are required before Wastewater may be discharged to the sewerage system, detailed plans showing the pretreatment facility and operating procedures shall be submitted to the City for review and shall be approved by the City before the facility is constructed. All such plans and construction shall be done at the IU's expense. The review and approval of such plans and operating procedures will in no way relieve the IU from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this Chapter, and the IU shall remain responsible for compliance with all applicable ordinances, Codes, regulations, and orders of any governmental authority. Any subsequent proposed changes in the pretreatment facilities or methods of operation shall be reported to, and be approved by, the City prior to the IU's implementation of the changes.
7. Any temporary or permanent obstruction to safe and easy access to the facility that is to be inspected and/or sampled shall be promptly removed by the IU at the written or verbal request of the Director and shall not be replaced. The IU shall bear the costs of clearing such access.
8. Unreasonable delays in allowing the Director access to the IU's premises shall be a violation of this section.

Article VIII Reporting Requirements

14.10.390 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 occurs later, existing Categorical Industrial Users currently discharging to, or scheduled to discharge to, the POTW shall submit to the Director a report containing the information listed in Section 14.10.390(C), below.
- B. At least ninety (90) days prior to the commencement of the discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall submit to the Director a report containing the information listed in Section 14.10.390(C), below. A New Source shall report the method of Pretreatment it intends to use to meet applicable Categorical Standards. A New Source shall also give estimates of its anticipated flow and quantity of pollutants to be discharged.
- C. IUs described above shall submit the information set forth below:

1. Identifying Information. The IU shall submit the name and address of the facility including the name of the facility operator and owners;
2. Permits. The IU shall submit a list of any environmental control permits held by or for the facility;
3. Description of Operations. The IU shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) that it carries out. This description shall include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes;
4. Flow Measurement. The IU shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
 - a. Regulated process streams; and
 - b. Other streams as necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e). The City may allow for verifiable estimates of these flows where justified by cost or feasibility considerations;
5. Measurement of Pollutants:
 - a. The IU shall identify the Pretreatment Standards applicable to each regulated process;
 - b. The IU shall submit the results of sampling and analysis identifying the nature and concentration of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration shall be reported. The sample shall be representative of daily operations;
 - c. A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, twenty-four (24) hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The City may waive flow-proportional composite sampling for any IU that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the IU demonstrates that this will provide a representative sample of the effluent being discharged;
 - d. The IU shall take a minimum of one (1) representative sample to compile the data necessary to comply with the requirements of this section;
 - e. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment facility exists. If other Wastewaters are mixed with the regulated Wastewater prior to pretreatment, the IU shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the Pretreatment standards. Where an alternate concentration has been calculated in accordance with 40 CFR 403.6(e), this adjusted limit along with supporting data shall be submitted to the City;

f. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Director determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the City or other parties, and approved by the Director;

g. The City may allow the submission of a baseline report that utilizes only historical data so long as the data provides information sufficient to determine the need for industrial Pretreatment measures; and

h. 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;

6. Compliance Certification. The IUs shall submit a statement, reviewed by an Authorized Representative of the IU (as defined in Section 14.08.040) and certified to by a qualified professional indicating whether Pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O and M) and/or additional Pretreatment is required for the IU to meet the Pretreatment Standards and Requirements;

7. Compliance Schedule. If additional Pretreatment and/or O and M will be required to meet the Pretreatment Standards, the IU shall submit the shortest schedule by which it will provide the additional Pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule shall meet the requirements set forth in Section 14.10.400 of this Chapter; and

8. All baseline monitoring reports must be certified in accordance with Section 14.10.530(A) of this Chapter and signed by an Authorized Representative as defined in Section 14.08.040.

14.10.400 Compliance Schedule

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional Pretreatment required for the IU to meet 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 single progress increment referred to above shall exceed nine (9) months;

C. The IU shall submit a progress report to the Director no later than fourteen (14) days following each date in the schedule and the final date of compliance, and shall include in the progress report, at a minimum, whether it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps taken by the IU to return to the established schedule; and

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

14.10.410 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 Director a report containing the information described in 40 CFR 403.12(d).

14.10.420 Periodic Compliance Reports

A. All SIUs must submit no less than twice per year, in June and December and/or on other dates as specified by the Director, reports indicating the nature and concentration of pollutants in the discharge that are limited by Pretreatment Standards, and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice or pollution prevention alternative, the SIU must submit documentation required by the Director or the Pretreatment Standard necessary to determine the compliance status of the SIU. The Director may modify the months during which the above reports are to be submitted.

B. The City may authorize an SIU subject to a Categorical Pretreatment Standard to forego sampling of a pollutant regulated by a Categorical Pretreatment Standard if the SIU has demonstrated through sampling and other technical means that the pollutant is neither present in nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the SIU [See 40 CFR 403.12(e)(2)]. This authorization is subject to the following conditions:

1. The waiver may be authorized where a pollutant is determined to be present solely due to sanitary Wastewater discharged from the facility provided that the sanitary Wastewater is not regulated by an applicable Categorical Standard and otherwise includes no Process Wastewater.
2. The monitoring waiver is valid only for the duration of the effective period of the wastewater discharge permit, but in no case longer than five (5) years. The SIU must submit a new request for the waiver before the waiver can be granted for each subsequent wastewater discharge permit.
3. In demonstrating that a pollutant is not present, the SIU must provide data from at least one (1) sampling of the facility's Process Wastewater prior to any treatment present at the facility that is representative of all Wastewater from all processes.
4. The request for a monitoring waiver must be signed by an Authorized Representative as defined in Section 14.08.040, and must include the certification statement in Section 14.10.530(A).
5. Non-detectable sample results may be used to demonstrate that a pollutant is not present only if the EPA-approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
6. Any grant of the monitoring waiver by the Director must be included as a condition in the SIU's permit. The reasons supporting the waiver and any information submitted by the SIU in its request for the waiver must be maintained by the City for three (3) years after expiration of the waiver.

7. Upon approval of the monitoring waiver and revision of the SIU's permit by the Director, the SIU must certify on each report with the statement in Section 14.10.530(C) that there has been no increase in the pollutant in its Waste stream due to activities of the SIU.

8. In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the SIU's operations, the SIU must immediately notify the Director and comply with the monitoring requirements of Section 14.10.420(A), or other more frequent monitoring requirements imposed by the Director.

9. This provision does not supersede certification processes and requirements established in Categorical Pretreatment Standards, except as otherwise specified in the Categorical Pretreatment Standards.

C. All periodic compliance reports must be signed and certified in accordance with Section 14.10.530(A) of this Chapter.

14.10.430 Reports of Changed Conditions

A. All IUs must promptly notify the Director in advance of any substantial changes to the IU's operations or system which might alter the nature, quality, or volume of its Wastewater.

B. SIUs are required to notify the Director immediately of any changes at its facility affecting the potential for a Slug discharge.

14.10.440 Reports from Unpermitted Industrial Users

Any IU that is not required to obtain a wastewater discharge permit shall provide reports to the Director as specified in this Article.

14.10.450 Accidental Discharge and Slug Control Plan

A. Each IU shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this Chapter. Facilities shall be provided to prevent accidental discharges of prohibited materials and shall be maintained at the IU's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted by the IU when requested, to the City for the City's review, and shall be approved by the Director before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the IU from the responsibility to modify its facility as necessary to meet the requirements of this Chapter or of any other applicable rule, regulation, order, or ordinance of a governmental authority.

B. Any direct or indirect connection to the IU's plumbing or drainage system that allows the discharge of Waste to the POTW in violation of this Chapter shall be eliminated. Where such action is impracticable or unreasonable, as determined by the City, the IU shall appropriately label such entry points to warn about discharge of such Wastes.

C. The Director shall evaluate whether each IU needs an accidental discharge/Slug discharge control plan or other action to control Slug discharges. The Director may require any IU to develop, submit for approval, and implement such a plan or to take such other action necessary to control Slug discharges. Alternatively, the Director may develop such a plan for any IU. An accidental discharge/Slug discharge control plan shall address, at minimum, the following:

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

2. Description of stored chemicals; and
3. Procedures to immediately notify the Director of any accidental or Slug discharge;
4. Procedures to prevent adverse impacts 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.

D. In the case of any discharge that might cause problems for the POTW, including, but not limited to, accidental discharges; discharges of a non-routine, episodic nature; non-customary batch discharges; and Slug discharges or loads, the IU shall immediately telephone and notify the Director of the incident. This notification shall include the location of the discharge, type of Waste, concentration and volume (if known), and corrective action taken by the IU.

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

F. A notice shall be permanently posted on the IU's bulletin board or other prominent place advising employees who could cause such a discharge to occur of the emergency notification procedure.

14.10.460 Notification of the Discharge of Hazardous Waste

A. Any User who commences the discharge of Hazardous Waste shall notify the POTW, 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 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; estimate of the mass and concentration of such constituents in the wastestream discharged during that calendar month; and an estimate 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 eighty days (180) after the discharge commences. Any notification under this subsection need be submitted only once for each individual Hazardous Waste discharged. However, notifications of changed conditions must be submitted under this article. The notification requirement in this section does not apply to pollutants already reported by Users subject to Categorical Pretreatment Standards under the self-monitoring requirements of Article VII.

B. If any new regulations adopted under Section 3001 of RCRA identify additional characteristics of Hazardous Waste or list any additional substances as Hazardous Waste, the User must notify the Director, the EPA Regional Waste Management Waste Division Director, and state Hazardous Waste authorities of the discharge of such a substance within ninety (90) days of the effective date of such regulations.

C. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Chapter, by a permit issued thereunder, or by any applicable federal or state law.

14.10.470 Representative Wastewater Samples

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

14.10.480 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Director or other parties approved by the EPA.

14.10.490 Sample Collection

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

B. Except as indicated in subsections C and D, below, the IU must collect Wastewater samples using twenty-four (24) hour flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the Director. Where time proportional composite sampling or grab sampling is authorized by the Director, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (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; and for volatile organics and oil and grease, the samples may be composited in the laboratory. The City may authorize composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

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

D. For sampling required in support of baseline monitoring reports and 90-day compliance reports pursuant to Sections 14.10.390 and 14.10.410 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist. For facilities for which historical sampling data do exist, the Director may authorize a lower minimum. For the reports required by Section 14.10.420 (40 CFR 403.12(e) and 403.12(h)), the IU is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

E. If an IU subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Director, using the procedures set forth in Section 14.10.420, the results of this monitoring shall be included in the report.

F. All required sampling shall be done at the IU's expense.

14.10.500 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by an IU indicates a violation, the IU must notify the Director within twenty-four (24) hours of becoming aware of the violation. The IU shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City within thirty (30) days of becoming aware of the violation. Where the City has performed the sampling and analysis in lieu of the IU, the City must perform the repeat sampling and analysis unless it notifies the IU of the violation and requires the IU to perform the repeat analysis. Resampling is not required if:

1. The City performs sampling for the IU at a frequency of at least once per month; or
2. The City performs sampling for the IU between the time the initial sampling was conducted and the time the IU or the City receives the results of this sampling.

14.10.510 Date of Receipt of Reports

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

14.10.520 Recordkeeping

Any IUs subject to the reporting requirements of this Chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the IU independent of such requirements, and documentation associated with BMPs established under Section 14.10.070(G). Records shall include the date, exact place, method, time of sampling, the name(s) of the person(s) taking the samples, dates the analyses were performed, name(s) of the person(s) who performed the analyses, a description of 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 or during the pendency of any litigation.

14.10.530 Certification Statements

A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver. The following certification statement is required to be signed and submitted by IUs submitting baseline monitoring reports pursuant to Section 14.10.390; SIUs submitting reports in compliance with the Categorical Pretreatment Standard deadlines pursuant to Section 14.10.410; IUs submitting periodic compliance reports required by Section 14.10.420(A-C); and IUs submitting an initial request to forego sampling of a pollutant on the basis of Section 14.10.420(B). The following certification statement must be signed by an Authorized Representative as defined in Section 14.08.040:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge

and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

B. Annual Certification for Non-Significant Categorical Industrial Users. A facility determined by the Director to be a Non-Significant Categorical Industrial User pursuant to the definition of Significant Industrial User in Section 14.08.040 [40 CFR 403.3(v)(2)] must annually submit the following certification statement, signed by an Authorized Representative as defined in Section 14.08.040:

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

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as defined in Section 14.08.040 [40 CFR 403.3(v)(2)];

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

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

This compliance certification is based on the following information:

C. Certification of Pollutants Not Present. IUs that have an approved monitoring waiver based on Section 14.10.420(B) must certify on each report that there has been no increase in the amount of pollutant in its wastestream due to activities of the IU [40 CFR 403.12(e)(2)(v)]. The report shall be signed by an Authorized Representative as defined in Section 14.08.040 and contain the following statement:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the Wastewaters due to the activities at the facility since the filing of the last periodic report under Section 14.10.420.

14.10.540 Confidential Information

All information and data on an IU obtained from reports, questionnaires, permit applications, permits, monitoring programs, and inspections shall be available to the public or other governmental agencies, unless the IU specifically requests, and is able to demonstrate to the satisfaction of the Director, 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 the IU furnishing a report requests and demonstrates that such information should be held confidential, the portions of the report that 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 in 40 CFR 2.302, shall not be recognized as confidential information and shall be available to the public without restriction. Information accepted by the City as confidential in accordance with the provisions of 40 CFR Part 2, entitled "Confidentiality of Business Information," shall not be transmitted to the general public by the City until and unless the IU is given prior and adequate notification. Governmental agencies such as the EPA and the state shall have immediate access to all information collected by the City under its source control program.

Article IX Public Participation

14.10.550 Publication of Industrial Users in Significant Noncompliance

A. The Director 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 IUs which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all SIUs (or any other IU that violates paragraphs (3), (4), or (8) of this section) and shall mean:

1. 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 Sections 14.10.040 and 14.10.070;
2. 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 in Sections 14.10.040 and 14.10.070, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
3. Any other violation of a Pretreatment Standard or Requirement, as described in Sections 14.10.040 and 14.10.070 (daily maximum, long-term average, instantaneous limit, or narrative standard), that the Director determines has caused, alone or in combination with other discharges, Interference or Pass Through, including any violation that has endangered the health of POTW personnel or the general public;
4. Any discharge of a pollutant that has caused imminent danger to the public or to the environment, or has resulted in the Director's exercise of his or her emergency authority to halt or prevent such a discharge;

5. 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 commencing construction, completing construction, or attaining final compliance;
6. Failure to provide within forty-five (45) days after the due date any required reports, including baseline monitoring reports, reports on compliance with Categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately and timely report noncompliance; or
8. Any other violation(s), which may include a violation of Best Management Practices, that the Director determines will adversely affect the operation or implementation of the local pretreatment program.

Article X Fees, Rates, and Charges

14.10.560 Charges and Fees

The City may adopt fees for the reimbursement of costs for setting up and operating the City's pretreatment program and septage receiving station. Said fees shall be set by resolution of the City Council and will be reviewed periodically to ensure that the fees charged reasonably cover the associated costs. Said fees may include, but are not limited to, the following:

1. Fees for waste hauler and industrial wastewater discharge permit applications, including the cost of processing such applications;
2. Fees for discharging Hauled Waste into the POTW;
3. Fees for monitoring, inspection, and surveillance procedures, including the cost of collecting and analyzing a waste hauler or IU's discharge, and reviewing monitoring reports submitted by IUs;
4. Fees for reviewing and responding to accidental discharge procedures and construction; and
5. Fees for filing for a show of cause hearing or appeals.

Article XI Liability and Enforcement

14.10.570 Liability

A. **Liability.** The City and its officers, agents and employees shall not be liable for any injury or death to any person, or damage to any property during, or growing out of, the performance of any work by any Person. Each Person shall be liable for, and shall hold the City and its officers, agents, and employees harmless from any liability imposed by law upon the City or its officers, agents or employees, including all costs, expenses, fees, and interest incurred in defending the same or in seeking to enforce this provision. Each Person shall be solely liable for any defects in the performance of its work or for any failure that may result from the performance of such work.

B. **Liability for Violation.** Any Person violating any of the provisions of this Chapter shall be liable to the City for any expense, loss, or damage occasioned by reason of such violation.

14.10.580 Public Nuisances

Any violation of the provisions of this Chapter or of any order of the City Council, and continued habitation of any building or continued operation of any industrial facility in violation of the provisions of this Chapter or of any other rule or regulation of the City, shall be considered a public nuisance and shall be corrected or abated as directed by the Director. Any User creating a public nuisance may be charged with a misdemeanor and the Director may refer the matter to the City Attorney for prosecution. Such Users shall be responsible for reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

14.10.590 Violations

A. It shall be unlawful for any User to violate any provision of this Chapter and the orders, rules, regulations and permits issued under this Chapter. Each day in which a violation occurs or continues shall be deemed a separate and distinct offense.

B. All Users shall be held strictly liable for any and all acts of their agents or employees under the provisions of this Chapter or any other rule or regulation of the City. Upon being notified by the City, pursuant to Section 14.10.610, of any defect arising in any sewer or of any violation of this Chapter, the User shall immediately correct the defect or violation. The City may cause proceedings to be brought for the abatement of the occupancy of the User's building or facility during the period of such violation.

14.10.600 Enforcement Response Plan

The Director shall prepare, implement, and, if necessary, periodically update an Enforcement Response Plan ("ERP") in conformance with EPA guidelines contained in 40 CFR 403.8(f)(5). This plan shall contain detailed procedures indicating how the POTW will investigate and respond to instances of Industrial User noncompliance.

14.10.610 Notice of Violation

A. When the Director finds that a User has violated or continues to violate any provision of this Chapter, a wastewater discharge permit, waste hauler permit, or order issued hereunder, or any other Pretreatment Standard or wastewater requirement of the City, state, or federal government, or is found to have improperly used or maintained sewers, the City may serve upon that User a written Notice of Violation according to the ERP. The notice shall state the nature of the violation and shall direct that the violation be corrected within such time as specified in the notice, as the Director may deem reasonable. A User who has been so notified shall cease all acts deemed to be violations within the time specified in the notice.

B. Nothing in this section shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, without issuing a Notice of Violation; however, such Notice of Violation shall be issued as soon as possible.

14.10.620 Consent Orders

The Director may enter into consent orders, assurances of compliance, or other similar agreements with any User responsible for noncompliance. Such agreement shall include specific actions to be taken by the User to correct the noncompliance within the time period specified in the agreement.

14.10.630 Compliance Orders

When the Director finds that a User has violated, or continues to violate, any provision of this Chapter, a wastewater discharge permit, waste hauler permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director 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, water service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. 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.

14.10.640 Cease and Desist Orders

When the Director finds that a User has violated, or continues to violate, any provision of this Chapter, a wastewater discharge permit, waste hauler permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Director may issue an order to the User directing it to cease and desist all such violations and directing the User to:

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

14.10.650 Emergency Suspensions

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

1. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Director may take such steps as deemed necessary, including immediate severance of the connection to the POTW, to prevent or minimize damage to the POTW, its receiving water, or endangerment to any individuals. The Director may allow the User to recommence its discharge when the User has demonstrated to the Director's satisfaction that the period of endangerment has passed, unless a termination proceeding under Section 14.10.660 of this ordinance has been initiated against the User.
2. A User that is responsible, in whole or in part, for any discharge that presents 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 Director prior to the date of any show cause hearing under Section 14.10.720.

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

14.10.660 Termination of service

The Director may revoke any wastewater discharge permit, or terminate or cause to be terminated wastewater and/or water service to any premises if a violation of any provision of this Chapter is found to exist or if a discharge of Wastewater causes or threatens to cause a condition of contamination, pollution, or nuisance as defined in this Chapter. This provision supplements other statutes, rules, and regulations that authorize the termination of services for payment delinquency.

14.10.670 Permit Revocation

Subject to the provisions of this Chapter regarding Notice of Violation and right to appeal, the Director may revoke any wastewater discharge permit pursuant to Section 14.10.670, or waste hauler permit pursuant to Section 14.10.180, or cause water service to be terminated to any premises if a violation of this Chapter or a wastewater discharge permit is found to exist; if a discharge of Wastewater causes or threatens to cause a condition of contamination, pollution, or nuisance as defined in this Chapter; if any condition presents an imminent danger to the environment or to the health or welfare of persons or threatens to interfere with the operation of the POTW; or if any condition violates applicable federal or state regulations. This provision supplements other statutes, rules, and regulations that authorize the termination of services for payment delinquency.

14.10.680 Authority to Disconnect

Whenever a User or IU has violated or continues to violate any provision of this Chapter, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be disconnected. When service has been disconnected as provided, the cost or estimated cost of disconnection and reconnection to the water system shall be deposited by the User with the City before such User is reconnected to the system. The City shall refund any part of the deposit remaining after payment of all costs of disconnection and reconnection.

14.10.690 Civil Penalties

A. Any User or IU who has violated, or continues to violate, any provision of this Chapter, a wastewater discharge permit, waste hauler permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, shall be liable to the City up to \$1,000 per violation, per day, for a maximum civil penalty of \$25,000.00. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

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

14.10.700 Criminal Penalties

A. A User or IU who willfully or negligently violates any provision of this Chapter, a wastewater discharge permit, waste hauler permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000.00 per violation, per day, or imprisonment for not more than one (1) year, or both.

B. A User or IU 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 Chapter, a wastewater discharge permit, waste hauler permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Chapter shall, upon conviction, be punished by a fine not to exceed \$1,000.00 per violation, per day, or imprisonment for not more than one (1) year or both.

C. In the event of a second conviction the User or IU shall be punished by a fine not to exceed \$3,000 per violation, per day.

14.10.710 Injunction

The City Attorney, upon request of the Director, may petition the superior court for a restraining order and/or a preliminary or permanent injunction, or any other remedy, as may be appropriate, whenever a discharge of Wastewater or Hauled Waste violates this Chapter or causes, or threatens to cause, a condition of contamination, pollution or nuisance. The City Attorney may also petition the superior court for a restraining order and/or preliminary or permanent injunction, or any other remedy, in the event of non-discharge violations or other such noncompliance with the rules and regulations set forth herein.

14.10.720 Show of Cause Hearing

A. Any User that is subject to a proposed enforcement action may request a hearing, in writing, within ten (10) days of receiving notification of such proposed enforcement action.

B. A notice shall be served on the User or IU specifying the time and place of the hearing, the proposed enforcement action, the reason why the proposed action is to be taken, and directing the User or IU to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested. The notice shall be served at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

C. The Director, or his or her assignee, may conduct the hearing as follows:

1. Issue, in the name of the City, notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings including, any supporting an affirmative defense, as set forth in Article XII;
2. Receive written and oral evidence;
3. After the hearing, prepare a written report of the evidence presented; and
4. Determine whether there is good cause for the enforcement action.

D. At any hearing held pursuant to this Chapter, testimony must be given under oath and recorded stenographically. The recorded transcript will be made available to any member of the public or to any party to the hearing upon payment of the City's usual charges.

14.10.730 Appeal Hearing

A. Any User, permit applicant, or permittee affected by any decision, action or determination, taken or issued by the Director, may file with the City Manager a written notice of appeal of the Director's decision. The notice of appeal must be received by the City within fifteen (15) calendar days after issuance of the decision, action, or determination being appealed. The notice of appeal shall set forth in detail all the facts supporting the appellant's request.

B. The City Manager shall within fifteen (15) days of receiving the notice of appeal designate an impartial hearing officer to hear the appeal and provide written notice to the appellant of the hearing date, time, and place. Employees of the City shall not be eligible to serve as the hearing officer.

C. The City Manager shall set the time and place for hearing the appeal; a notice of the time and place of the hearing shall be published in a newspaper of general circulation in the City; and notice of the hearing shall also be given to the appellant by mail, postage prepaid, at the address provided by the appellant in the notice of appeal at least ten (10) business days before the hearing date.

D. The hearing shall be held not more than thirty (30) days from the date of mailing of such notice by certified mail to the appellant unless a later date is agreed to by the appellant. If the hearing is not held within said time due to actions or inactions of the appellant, then the Director's decision shall be deemed final.

E. The scope of the hearing shall be limited to the technical evidence regarding the alleged violation(s) and proposed enforcement action(s). The hearing officer shall have no authority to waive any requirement of the Municipal Code, or state or federal law or regulations.

F. At the hearing, the appellant shall have the opportunity to present information supporting its position concerning the Director's decision, action, or determination.

G. After the conclusion of the hearing, the hearing officer shall submit a written report to the City Manager setting forth a brief statement of facts found to be true, a determination of the issues presented, conclusions, and a recommendation whether to uphold, modify, or reverse the Director's original decision, action, or determination. Upon receipt of the written report, the City Manager shall make a determination and shall issue a decision and order within thirty (30) calendar days of the hearing by his designee. The written decision and order of the City Manager shall be sent by certified mail, return receipt requested, to the appellant at the appellant's business address, or to the address of appellant's legal counsel/representative.

H. The decision of the City Manager shall be the final decision, and no action by the City Council shall be required.

I. A fee, as provided for in this paragraph I., shall accompany an application for a hearing before any hearing date. The purpose of the fee shall be to cover those costs incurred by the City for the appeal process. Appeal fees shall be set by resolution of the City Council. Appeal fees will be reviewed periodically to ensure that the fees charged cover the costs associated with the appeal process.

J. If the appellant wishes to have the hearing transcribed, the appellant may request that a court reporter be present at the hearing. The appellant shall bear all costs and expenses of the transcription.

Article XII Affirmative Defense to Discharge Violations

14.10.740 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 of this section 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 workmanlike manner and in compliance with applicable operation and maintenance procedures; and
3. The User has submitted the following information to the Director within twenty-four (24) hours of becoming aware of the upset (or if this information is initially provided orally, a written submission is provided within five (5) calendar 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 expected duration of noncompliance; and
 - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

D. In any enforcement proceeding, the User claiming 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 for the treatment facility is reduced, lost, or fails.

14.10.750 Prohibited Discharge Standards

A User may claim an affirmative defense to an enforcement action brought against it for noncompliance with the provisions of Section 14.10.040 if it can demonstrate that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference, and that either:

1. A local limit exists for each pollutant discharged and the User's discharge complied with each limit immediately prior to, and during, the Pass Through or Interference; or
2. 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, the Interference complied with applicable sludge use or disposal requirements.

Article XIII Miscellaneous Provisions

14.10.760 Severability

If any section, subsection, sentence, clause or phrase in this Chapter or Chapter 14.08 is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of these chapters. The City Council hereby declares that it would have passed the ordinance codified in this Chapter and Chapter 14.08, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Chapter or Chapter 14.08 would be subsequently declared invalid or unconstitutional.