

B. The City shall have the right to deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial dischargers where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate the Regional WWTP NPDES permit. New sources and new dischargers shall not be allowed to discharge without first complying with the applicable pretreatment standards and requirements. New sources and new dischargers subject to the permitting requirements of this chapter shall comply with those requirements.

C. Compliance by existing sources with categorical pretreatment standards shall be within three (3) years of the date the categorical pretreatment standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR chapter I, subchapter N. Direct dischargers with NPDES permits modified or reissued to provide a variance pursuant to section 301(i)(2) of the Act shall be required to meet compliance dates set in any applicable categorical pretreatment standard. Existing sources which become industrial dischargers subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing industrial dischargers except where such sources meet the definition of a 'new source' within the meaning of this chapter. New sources and new significant industrial dischargers shall install and have in operating condition, and shall start-up all pollution control equipment required to meet applicable pretreatment standard before beginning to discharge. Within the shortest feasible time (not to exceed ninety [90] days after the beginning of the discharge), new sources and new significant industrial dischargers must meet all applicable pretreatment standards.

D. The Public Works Director shall establish a final compliance deadline date for any existing user not covered by an applicable categorical pretreatment standard or for any categorical user when the local limits for said user are more restrictive than the applicable federal categorical pretreatment standard. Any existing industrial discharger that must comply with a more stringent local limit which is in non-compliance with any local limits shall be provided with a compliance schedule placed in a wastewater discharge permit to insure compliance within the shortest time feasible.

12.12.130 Industrial discharger identification and data disclosure.

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

B. When requested by the City to do so, industrial dischargers shall complete, and file with the Public Works Department, a Preliminary or Follow Up Industrial Waste Survey (IWS) signed by an authorized representative of the industrial discharger and in the form prescribed by the Public Works Department. This industrial waste survey shall be filed within thirty (30) days of being received by the industrial discharger, unless the industrial discharger requests in writing a thirty (30) day extension from the Public Works Director and the Director approves the request in writing. Failure to complete

this survey shall be reasonable grounds for terminating service to the industrial discharger and shall be considered a violation of this chapter.

12.12.140 Reporting requirements for industrial dischargers.

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

1. The name and address of the facility including the name of the operator and owners.
2. A list of any environmental control permits held by or for the facility.
3. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial discharger. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
4. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
5. A measurement of pollutants.
 - i. Identification of the categorical pretreatment standards applicable to each regulated process.
 - ii. Submission of the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the City) of regulated pollutants in the discharge from each regulated process. The industrial discharger shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this paragraph. Instantaneous, daily maximum and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in

section 12.12.140, subsection H. In cases where the pretreatment standard requires compliance with best management practices or pollution prevention alternatives, the industrial discharger shall submit documentation as required by that standard to document compliance with the standard.

- iii. Sampling must be performed in accordance with procedures set out in section 12.12.140, subsection I.
 - iv. The City may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
6. A statement from the industrial discharger's authorized representative and certified by a Professional Engineer registered in the State of Washington, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial discharger will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. Where the industrial discharger's categorical pretreatment standard has been modified by a removal allowance (under 40 CFR 403.7), the combined wastestream formula (under 40 CFR 403.6(e)), and/or a fundamentally different factors variance (under 40 CFR 403.13) at the time the industrial discharger submits the report required under section 12.12.140, subsection A of this chapter, the information required by paragraphs 6 and 7 of this subsection shall pertain to the modified limits. If the categorical pretreatment standard is modified by a removal allowance, the combined waste stream formula, and/or a fundamentally different factors variance after the industrial discharger submits the report required under section 12.12.140, subsection A of this chapter, any necessary amendments to the information requested by paragraphs 6 and 7 of this subsection shall be submitted by the industrial discharger to the Public Works Director within sixty (60) days after the modified limit is approved.

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

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

conducting routine operation). No progress increment referred to above shall exceed nine (9) months.

- ii. The industrial discharger shall submit a progress report to the Public Works Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not the discharger complied with the increment of progress, the reason for any delay, (and, if appropriate) the steps being taken by the industrial discharger to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the Public Works Director.

7. All baseline monitoring reports must be signed and certified in accordance with section 12.12.140, subsection K.

B. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards (deadline date for categorical dischargers published in the appropriate categorical pretreatment standards, compliance date for non-categorical dischargers established by the City), or in the case of a new source (new discharger) within thirty (30) days of commencement of the introduction of wastewater into the POTW, any industrial discharger subject to such pretreatment standards and requirements shall submit to the Public Works Director a report containing the information described in section 12.12.140, subsection A, parts 4 through 6. For industrial dischargers which may be subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the industrial discharger's long term wastewater discharge rate. For all other industrial dischargers subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the industrial discharger's actual wastewater discharge rate during the appropriate corresponding sampling period. All compliance reports must be signed and certified in accordance with section 12.12.140, subsection K.

C. Any significant industrial discharger subject to a pretreatment standard shall, at a frequency determined by the Public Works Director, in its discharge permit, but in no case less than twice per year shall submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All compliance reports must be signed and certified in accordance with section 12.12.140, subsection K.

1. The report shall include a record of the concentrations (and mass if specified by the City) of the limited pollutants that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations, and shall also include any additional information required by this chapter or regulations promulgated thereunder. Production data shall be reported if required by the City. Both daily maximum and average concentration (or mass, where required) shall be reported. In cases where the pretreatment standard requires compliance with best management practices or pollution prevention alternatives, the industrial discharger shall submit documentation as required by

that standard to document compliance with the standard. If a discharger sampled more frequently than required by the City, it must submit all results of sampling and analysis of the discharge during the reporting period.

2. Any industrial discharger subject to equivalent mass or concentration limits established by the City in accordance with procedures provided in 40 CFR 403.6(c) shall submit as part of its report a reasonable measure of the discharger's long term production rate.
3. If the City calculated limits to factor out dilution flows or non-regulated flows, the industrial discharger shall be responsible for providing flows from the regulated process flows, dilution flows and non-regulated flows.
4. The report shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of the normal work cycles and expected pollutant discharges to the POTW.
5. Flows shall be reported on the basis of actual measurement; provided, however, that the City may accept reports of average and maximum flows estimated by verifiable techniques if the City determines that an actual measurement is not feasible.
6. Sampling shall be representative of the industrial discharger's actual discharge and collected in accordance with section 12.12.140, subsection I. Wastewater monitoring and flow management facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial discharger to keep its monitoring facility in good working order shall not be grounds for the industrial discharger to claim that sample results are unrepresentative of its discharge.
7. Where the industrial discharger conducts self-monitoring, the frequency of monitoring shall be prescribed by the City. At a minimum, such dischargers shall sample their discharge twice per year. The samples shall be processed at a laboratory accredited by the state.

D. Any industrial discharger subject to this chapter shall report to the Public Works Department, in person or by phone, ninety (90) days prior to any changes in its operations or processes which significantly affect its wastewater constituents or characteristics, or storage of chemicals, and which take place after the last report, permit application or environmental survey. These changes include, but are not limited to, flow, BOD, or TSS increases of twenty percent (20%) or greater, the commencement of discharge of any prohibited or limited substance under section 12.12.060, subsection B of this chapter, and the addition of any process covered by national categorical pretreatment standards. Formal written notification shall be made to the Public Works Department at least ten (10) days prior to such change.

E. Any discharger operating under equivalent mass or concentration limits shall notify the Public Works Director within two (2) business days after the discharger has a reasonable basis to know that the production level will significantly change within the next calendar month. Any discharger not notifying the Public Works Director of such an anticipated change shall be required to comply with the existing limits.

F. All significant industrial dischargers not subject to categorical pretreatment standards and, as deemed necessary by the Public Works Director, any minor industrial dischargers shall provide to the Public Works Director the same reports as set forth in section 12.12.140, subsection A of this chapter.

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

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

I. Except as indicated below, the industrial discharger must collect wastewater samples using twenty-four (24) hour flow proportional composite collection techniques. In the event twenty four (24) hour flow proportional composite sampling is infeasible, the Public Works Director may authorize the use of time proportional composite sampling or a minimum of four (4) grab samples where the industrial discharger demonstrates that this will provide a representative sample of the actual effluent being discharged to the POTW and the Public Works Director shall document the decision to allow alternative sampling in the discharger's facility file. In addition, grab samples may be required to show compliance with instantaneous discharge limits. Samples to be analyzed for fats, oil and grease (FOG), temperature, pH, cyanide, phenols, toxicity, sulfides, metals and volatile organic compounds shall be obtained using grab collection techniques.

1. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the City. For dischargers subject to categorical pretreatment standards, if other wastewaters are mixed with the regulated wastewater prior to pretreatment the discharger should measure the

flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the applicable pretreatment standards.

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

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

K. Any reports required by this chapter and submitted by the industrial discharger shall be signed by an authorized representative of the discharger. If applicable pretreatment standards or requirements are not being met, the statement also must be signed by an engineer qualified in pretreatment system design. Any person signing the report shall make the following certification:

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

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

12.12.150 Monitoring equipment.

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

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

C. All monitoring equipment shall be installed and maintained in accordance with all applicable standards and specifications. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

12.12.160 Inspection and sampling.

A. To assess compliance with this chapter, independent of any information provided by an industrial discharger, the City shall have the right to inspect, conduct surveillance of, and collect wastewater samples from all monitoring equipment, sewer lines, and plant facilities, and to examine and copy any discharge related records, during all hours that a discharger is operating or whenever employees are on the premises. The City will normally schedule such inspections upon seven (7) days notice, but, if deemed appropriate or necessary, shall have the right to make unscheduled inspections without prior notice. The City shall have the right to erect or install on the discharger's property such devices as are reasonably necessary to conduct sampling, inspection, compliance monitoring or metering operations. It will be unlawful under this chapter to interfere with any City sampling equipment or samples.

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

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

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

E. The Public Works Director shall develop and implement procedures to randomly sample and analyze the effluent from industrial users and conduct surveillance activities to better identify, independent of information supplied by industrial dischargers, occasional and continuing noncompliance with applicable pretreatment standards. The Public Works Director shall inspect and collect and analyze effluent samples from each significant industrial discharger at least once per year. The Public Works Director shall investigate instances of noncompliance indicated by information provided by industrial dischargers and by the Public Works Director's independent inspection, sampling, and analysis.

12.12.165 Vandalism.

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

12.12.170 Confidential Information.

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

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

Part 7 - Waste Discharge Permits and Authorizations

12.12.175 Waste Discharge Permit and Authorization Determination.

A. All new non-residential dischargers (domestic and non-domestic) shall submit a completed Preliminary Industrial Waste Survey to the City for its review and determination of whether the non-residential discharger will need to contact Ecology to apply for a Waste Discharge Permit before discharging to the POTW or receive authorization from the City to discharge to the POTW without receiving a Waste Discharge Permit. This Preliminary Industrial Waste Survey shall be filed within thirty (30) days of being received by the non-residential discharger, unless the non-residential discharger requests in writing a thirty-day (30) extension from the Public Works Director and the Public Works Director approves the request in writing. The Preliminary Industrial Waste Survey shall be signed by an authorized representative of the non-residential discharger and in the form prescribed by the City. The Public Works Director may require either additional information or a follow up Industrial Waste Survey (IWS), as described in Section 12.12.180 Subsection B. Should the Public Works Director approve the IWS, it shall satisfy Section 12.12.180 Subsection B.1 for purposes of applying for a Waste Discharge Permit from Ecology, if applicable. Existing non-residential dischargers shall submit a Preliminary IWS when requested to do so by the City (see Section 12.12.130, Subsection B).

1. Ecology Waste Discharge Permit Required. Should the Public Works Director determine that a Waste Discharge Permit is required, the discharger shall contact Ecology and follow Ecology's requirements for obtaining a Waste Discharge Permit.
2. City Authorization Required. Should the Public Works Director determine that a Waste Discharge Permit is not required, the Public Works Director shall determine which of the terms and conditions of this Ordinance apply prior to granting authorization to discharge to the POTW. All non-residential dischargers receiving authorization to discharge to the POTW shall comply with Section 12.12.180.

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

12.12.180 City Authorization Required.

A. The Public Works Director may authorize long term, short term or temporary wastewater discharges into the POTW. All authorized wastewater discharges shall comply with pretreatment standards and regulations (Section 12.12.060), limitations on wastewater strength (Section 12.12.070), and protect the POTW from slug load or accidental discharges (Section 12.12.080).

Failure to comply shall subject the discharger to the enforcement provisions of Part 8 of this Ordinance and all industrial dischargers located outside of the City's boundaries that receive authorization to discharge from the City shall accept the City's authority to impose those enforcement provisions as a condition to discharging wastewater into the POTW. The Public Works Director may condition the authorization as necessary to comply with the provisions of this chapter, and may deny requests under Part 7 on the grounds that the discharge would violate any provision of this chapter.

B. Discharge Authorization procedure.

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

12.12.185 Ecology Waste Discharge Permit Required.

- A. No significant industrial discharger (existing or new) shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from Ecology. Any violation of the terms or

conditions of a wastewater discharge permit shall be deemed a violation of this Ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all applicable federal and state standards or with any other applicable requirement of this Ordinance or federal or state law.

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

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

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

Part 8 - Administrative Enforcement

12.12.200 Notification of violation.

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

12.12.210 Consent orders.

A. The Public Works Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the discharger responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Such schedules may not extend the compliance date beyond applicable federal deadlines. Consent orders shall have the same force and effect as compliance orders issued pursuant to section 12.12.220 below and shall be judicially enforceable.

B. Failure to comply with any terms or requirements of a consent order by the discharger shall be an additional and independent basis for termination of wastewater treatment services or for any other enforcement action authorized under this chapter and deemed appropriate by the Public Works Director.

12.12.220 Compliance orders.

A. When the Public Works Director finds that a discharger has violated or continues to violate this chapter or any order issued hereunder, he may issue a compliance order to the discharger responsible for the violation directing that, following specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated and maintained. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. In establishing the compliance schedule in the compliance order, the Public Works Director will consider applying to the schedule the conditions provided in section 12.12.140, subsection A, paragraph 7 of this chapter. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the discharger of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the discharger.

B. Failure to comply with any terms or requirements of a compliance order by the discharger shall be an additional and independent basis for termination of wastewater treatment services or for any other enforcement action authorized under this chapter and deemed appropriate by the Public Works Director.

12.12.230 Cease and desist orders.

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

12.12.240 Administrative penalties.

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

12.12.250 Recovery of costs incurred by the City.

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

12.12.260 Emergency suspension of treatment services.

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

B. Any discharger notified of a suspension of the wastewater treatment service shall cease immediately all wastewater discharges. In the event of a discharger's failure to comply immediately and voluntarily with the suspension order, the Public Works Director will take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage, including but not limited to, the POTW, its biosolids or receiving waters, or endangerment to the health and welfare of any individuals. The City shall have the right of access onto the discharger's private property to accomplish such severance of the sewer line. The Public Works Director will allow the discharger to recommence its wastewater discharge when the endangerment has passed, unless the termination proceedings set forth in section 12.12.270 of this chapter are initiated against the discharger.

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

D. Any discharger whose wastewater treatment service has been suspended pursuant to this section shall have the right to a post suspension hearing to be conducted in accordance with the procedures set forth in section 12.12.280 below. A discharger which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Public Works Director prior to the date of the post-suspension hearing.

12.12.270 Termination of treatment services.

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

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

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

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

12.12.280 Administrative hearing.

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

B. Any hearing pursuant to this section must be requested by the discharger in writing within fifteen (15) days after the discharger receives notice of the City's determination. The discharger's written request for hearing shall be filed with the Public Works Director. Failure to submit a timely notice shall be deemed to be a failure to exhaust administrative remedies and shall preclude any further review. The City will conduct the hearing within twenty (20) days of the receipt of the request (or within five (5) days if the discharger is contesting suspension or termination of wastewater services).

C. The administrative hearing authorized by this section will be held before the Public Works Director or the Public Works Director's designee. Formal rules of evidence will not apply but the discharger and the City shall have the right to present witnesses and documentary evidence. The Public Works Director or the Public Works Director's designee will issue a written decision within ten (10) days of the conclusion of the hearing.

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

E. Except as otherwise provided, all decisions by the Public Works Director or the Public Works Director's designee shall be final and conclusive on all parties unless appealed to the City Council under section 12.12.285 of this chapter.

12.12.285 Appeal to the City Council.

A. Any decision of the Public Works Director or the Public Works Director's designee rendered pursuant to section 12.12.280 of this chapter may be reviewed by appeal to the City Council. The discharger must file written notice of appeal with the Public Works Director within fifteen (15) days following notification of such decision or action. Such notice of appeal shall be set forth in reasonable detail the action or decision appealed and the discharger's grounds for reversal or modification thereof. Failure to submit a timely notice shall be deemed to be a failure to exhaust administrative remedies and shall preclude any further review.

B. Following receipt of such notice, the Public Works Director will schedule a date for a public meeting by the City Council at which time the City Council shall consider the appeal. The date of the public meeting should be not later than twenty (20) days following the date the Public Works

Director receives notice of the appeal. The Public Works Director will mail written notice to all parties of record to apprise them of the meeting date before the City Council.

C. City Council review of the facts shall not be limited to evidence presented to the Public Works Director or the Public Works Director's designee. The City Council may request additional information or memoranda in order to reach a decision, provided that all parties of record are given an opportunity to respond to the material provided.

D. At the public meeting the City Council may adopt, amend and adopt, reverse, amend and reverse the findings, conclusions, and decision of the Public Works Director or the Public Works Director's designee or remand the matter to the Public Works Director or the Public Works Director's designee.

12.12.290 Judicial Review.

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

12.12.300 Publication of enforcement actions.

A. A list of all dischargers that experience a significant violation of applicable pretreatment standards or other pretreatment requirements during the previous twelve (12) months shall be published, at least annually, by the City in the largest local daily newspaper of general circulation. For the purposes of this provision, a violation is a significant violation which meets one or more of the following criteria:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the wastewater measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l) for the same pollutant parameter;
2. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the wastewater measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils, and grease, and 1.2 for all other pollutants except pH);
3. Any other discharge violation of a pretreatment standard or requirement, as defined by 40 CFR 403.3(l) (daily maximum, longer-term average, instantaneous limit or narrative standard) that the City determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the City's exercise of its emergency authority under section 12.12.260 of this chapter to halt or prevent such a discharge;
5. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance;
8. Failure to maintain records of pretreatment facility maintenance, including, but not limited to, cleaning and waste removal dates, and means of disposal of accumulated wastes; or
9. Any other violation or group of violations which causes the City to expend considerable time or expense in tracking down the source of pollutants detected in the POTW wastewater influent, or which the City determines will adversely affect the operation or implementation of its pretreatment program.

12.12.310 Performance bonds and liability insurance.

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

12.12.320 Operating upsets.

A. Any discharger that experiences an upset shall inform the Public Works Director of the upset within twenty-four (24) hours of discovering the upset. Where such information is given orally, a written report describing the upset shall be filed with the Public Works Director by the discharger within five (5) days after the discovery. This report shall be based on properly signed, contemporaneous operating logs or other relevant evidence and shall include:

1. A description of the upset, the cause of the upset and the impact of the upset on the discharger's compliance with this chapter.

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

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

12.12.330 General/Specific prohibitions.

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

12.12.340 Bypass.

A. A discharger may allow any bypass to occur which does not cause the pretreatment standards or requirements of sections 12.12.060 and 12.12.070 of this chapter to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections B and C of this section.

B. If a discharger knows in advance of the need for a bypass, it shall submit prior notice to the Public Works Director, at least ten (10) days before the date of the bypass if possible. A discharger shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the Public Works Director within twenty-four (24) hours from the time it becomes aware of the bypass.

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

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

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

D. The Public Works Director may approve an anticipated bypass, after considering its adverse effects, if the Public Works Director determines that it will meet the three conditions listed in this subsection.

12.12.350 Records retention.

All dischargers subject to this chapter shall retain and preserve for no less than six (6) years any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or on behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of an enforcement action or litigation shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired, but in no case less than six (6) years.

Part 9 - Judicial Enforcement

12.12.360 Judicial remedies.

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

12.12.370 Injunctive relief.

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

12.12.380 Civil penalties.

A. Any discharger who has violated or continues to violate an order of the City, or who fails to comply with: (a) any provision of this chapter, or (b) any rule or order of the City, issued pursuant to this chapter, shall be liable to the City for a civil penalty. The amount of such civil penalty shall be at least one thousand dollars (\$1,000) per violation but not more than ten thousand dollars (\$10,000) per violation, plus actual damages incurred by the POTW. Each day upon which a violation occurs or continues shall constitute a separate violation. Unpaid civil penalties shall constitute a lien against the individual discharger's property. In addition to the above described penalty and damages, the Public Works Director may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses. A discharger's failure to pay such civil penalties shall be grounds for termination of wastewater services.

B. The Public Works Director will petition the Court to impose, assess, and recover such civil penalties. In determining the amount of liability, the Court will take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the discharger's violation, corrective actions by the discharger, the compliance history of the discharger, available, and any other factor as justice requires.

C. Filing a suit for civil liabilities shall not be a prerequisite for taking any other action against a discharger.

12.12.390 Falsifying information.

Any person who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter (in addition to civil and/or criminal penalties otherwise provided by law) shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000) per violation per day plus costs of prosecution or imprisonment not to exceed ninety (90) days or both.

12.12.400 Criminal penalties.

Any person who willfully, knowingly, recklessly or negligently violates any provision of this chapter through any act or omission shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than ten thousand dollars (\$10,000) per violation per day plus costs of prosecution or imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment. Each violation and each day of each violation shall constitute a separate offense.

12.12.410 Remedies nonexclusive.

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

Part 10 - Additional Provisions

12.12.420 Septage and liquid waste hauling requirements.

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

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

1. Hold a valid septage hauling permit from the Yakima Health District;
2. Carry liability insurance of such kind and in such amount as the City may require to protect itself from any loss or damage that may directly or indirectly be occasioned by the discharge of septage into the POTW;
3. Complete a septage waste manifest (in triplicate) obtained from the Public Works Department prior to arrival at the POTW; and
4. Prevent the commingling of industrial wastewater, process wastewater, biosolids and domestic wastewater. Any wastewater collected from a business or industry must receive a written authorization from the Public Works Director before discharge into the POTW is allowed. Any wastewater collected from a business or industry must be discharged into the POTW first before wastewater from another business or industry is collected.

C. The City shall have the right to inspect and sample any trucked or hauled waste before allowing its discharge to the POTW to verify compliance with the provisions of this chapter and any applicable federal or state laws.

D. The City shall have the right to refuse the discharge of any trucked or hauled waste to the POTW if it determines within its absolute discretion that the discharge of such trucked or hauled waste would not comply with the provisions of this chapter and any applicable federal or state laws.

E. The discharge of any trucked or hauled waste containing hazardous wastes, as defined under applicable federal and state laws and regulations, to the POTW shall be strictly prohibited.

F. Failure to comply with the terms of this section shall subject the person, firm or corporation responsible for the failure to the penalties specified in part 8 of this chapter.

12.12.430 Regulations.

The Public Works Director will have the authority to promulgate written regulations consistent with this chapter.

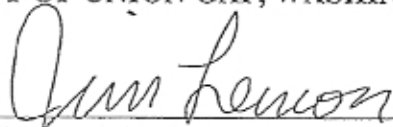
12.12.440 Severability.

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

Section 2. This ordinance shall be in full force and effect thirty (30) days after its passage, approval and publication as provided by law.

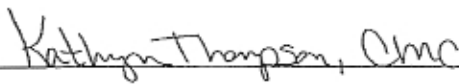
PASSED BY THE CITY COUNCIL, signed and approved this 9th day of June, 2008.

CITY OF UNION GAP, WASHINGTON



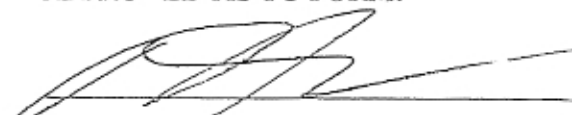
Jim Lemon, Mayor

ATTEST:



Kathryn Thompson, CMC, City Clerk

APPROVED AS TO FORM:



Robert F. Noe, City Attorney

