

CITY OF EVERETT

ORDINANCE #3070-08

PRETREATMENT ORDINANCE

2008

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ORDINANCE #3070-08

AN ORDINANCE relating to uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the City of Everett, repealing and replacing Ordinance 2034-95 (Chapter 14.40 EMC), as previously amended by Ordinance 2247-97 (Chapter 14.40 EMC) which may be referred to as the “Pretreatment Ordinance”.

WHEREAS, the Everett City Council deems it necessary to set forth uniform requirements for users of the POTW in order to comply with all applicable State and Federal laws and regulations; and

WHEREAS, the City’s wastewater pretreatment regulations, codified at Chapter EMC 14.40, were last amended in 1997 and are no longer consistent with federal regulations, including the Pretreatment Streamlining Regulation that modified 40 CFR Sections 9, 122 and 403 in October 2005; and

WHEREAS, Washington State’s Department of Ecology and the United States Environmental Protection Agency have reviewed and approved the requirements for users of the POTW contained in this Ordinance

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the City of Everett, and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
- B. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

- C. To ensure that the quality of the wastewater treatment plant biosolids is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- D. To protect POTW personnel who may be affected by wastewater, wastewater solids, and biosolids in the course of their employment and to protect the general public;
- E. To improve the opportunity to recycle and reclaim wastewater and biosolids from the POTW;

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

1.2 Administration

Except as otherwise provided herein, the Director shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other City of Everett personnel. The Director may create administrative guidelines to implement the provisions of this ordinance.

1.3 Definitions

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

- A. Accessible. Accessible, when applied to required pretreatment monitoring or treatment equipment, shall mean direct access without the necessity of removing any panel, door, vehicle, equipment, materials, or other similar obstruction.
- B. Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.
- C. Administrative Penalty (fine). A punitive monetary charge unrelated to treatment cost, which is assessed by the Director rather than a court.

- D. Applicable Pretreatment Standards. For any specified pollutant, Everett prohibitive standards, Everett specific pretreatment standards (local limits), State of Washington pretreatment standards, or EPA's Categorical Pretreatment Standards (when effective), whichever standard is appropriate and most stringent.
- E. Approval Authority. The state of Washington Department of Ecology.
- F. Authorized Representative of the User.
- (1) If the user is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
 - (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;
 - (3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her authorized designee.
 - (4) The individuals described in paragraphs 1 through 3 above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

- G. Average Daily Flow. Average Daily Flow shall be defined as the arithmetical mean of the total Process Wastewater flow over a one (1) year period. This mean shall be calculated based on days when a discharge occurs.
- H. Best Management Practices (BMPs) The term Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- I. Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter amenable to measurement by the methods described in Standard Methods for the examination of Water and Wastewater, current approved edition; under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration [milligrams per liter (mg/L)].
- J. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the US EPA in accordance with Sections 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- K. Categorical User. A user covered by one of EPA's Categorical Pretreatment Standards.
- L. Chemical Oxygen Demand (COD). A measure of the oxygen consuming capacity of inorganic and organic matter present in wastewater amenable to measurement by the methods described in Standard Methods for the examination of Water and Wastewater, current approved edition. COD is expressed as the amount of oxygen consumed from a chemical oxidant in mg/L during a specific test.
- M. City. The City of Everett, Washington.
- N. Cooling Water/Non-Contact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Cooling water may be generated from any use, such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.
- O. Color. The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.
- P. Commercial User. A Commercial User is any discharger of Industrial Waste that does not meet the definition of a Significant Industrial User.

- Q. Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
- R. Day. Day shall be defined as a calendar day.
- S. Director. The Director of the City of Everett Public Works Department, or his duly authorized representative.
- T. Discharge Authorization. A waste water discharge permit authorizing users to discharge wastewater to the Everett POTW. These permits would be for users other than Significant Industrial Dischargers, or Categorical industries, but still requiring a control mechanism.
- U. Domestic Sewage. Domestic sewage means the liquid and water borne wastes derived from ordinary living processes, free from industrial wastes, and of such character to permit satisfactory disposal, without special treatment, into the POTW.
- V. Domestic User (Residential User). Any person who contributes, causes, or allows the contribution of wastewater into the City POTW that is of a similar volume and/or chemical make-up as that of a residential dwelling unit. Discharges from a residential dwelling unit typically include up to 100 gallons per capita per day at 250 mg/L of BOD and TSS.
- W. Environmental Protection Agency (EPA). The US Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.
- X. Existing Source. For a categorical industrial user, an "existing source" is any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- Y. Existing User. For non-categorical users an "existing user" is defined as any user which is discharging wastewater prior to the effective date of this ordinance.
- Z. Fats, Oils and Grease (FOG). The term fats, oils, and grease shall mean those components of wastewater amenable to measurement by the methods described in Standard Methods for the examination of Water and Wastewater, current approved edition. The term Fats, Oils And Grease shall include polar and non polar fats, oils, and grease and other components extracted from wastewater by these methods.
- AA. General Permit. At the discretion of the Director, groups of users may be regulated under general control mechanisms if the following conditions are met. All of the facilities to be covered must:

- (1) Involve the same or substantially similar types of operations;
- (2) Discharge the same types of wastes;
- (3) Require the same effluent limitations;
- (4) Require the same or similar monitoring; and
- (5) In the opinion of the POTW, are more appropriately controlled under a general control mechanism than under individual control mechanisms.

AB. Grab Sample. A sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.

AC. Grease Interceptor. An interceptor of at least 750 gallon capacity to serve one or more fixtures and which shall be remotely located.

AD. Grease Trap. A device designed to retain grease from one to a maximum of four fixtures.

AE. High Strength Waste. Any waters or wastewater having a concentration of BOD or Total Suspended Solids in excess of 250 mg/L, or having a concentration of Fats, Oil and Grease in excess of 50 mg/L.

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

AG. Industrial User. An Industrial User is any discharger of Industrial Waste that meets the definition of a Significant Industrial User.

Industrial Waste. Industrial waste means any and all liquid or water borne waste from industrial or commercial processes, except domestic sewage.

AH. Interceptor. An interceptor is a device designed and installed so as to separate and retain deleterious or undesirable matter from normal wastes and permit normal liquid wastes to discharge by gravity.

AI. Interference. A discharge which alone or in conjunction with a discharge or discharges from other sources, either: (1) inhibits or disrupts the POTW, its treatment processes or operations; (2) inhibits or disrupts its biosolids (sludge) processes, use or disposal; or (3) is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/ regulatory provisions or permits issued thereunder: Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource

Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

AJ. Liquid Waste. Liquid waste is the discharge from any fixture, appliance or appurtenance in connection with a plumbing system which does not receive fecal matter.

AK. Maximum Allowable Discharge Limit. The maximum concentration (or loading) of a pollutant allowed to be discharged at any time.

AL. Medical Wastes. 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.

AM. Middle Tier Significant Categorical Industrial User. At the Director's discretion, a Categorical Industrial User may be deemed a "Middle Tier Significant CIU" where the Industrial User meets all of the following conditions:

- (1) The Industrial User's total categorical wastewater flow does not exceed any of the following:
 - (a) 0.01 percent of the design dry weather hydraulic capacity of the POTW, or 5,000 gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches;
 - (b) 0.01 percent of the design dry weather organic treatment capacity of the POTW; and
 - (c) 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved local limits were developed by the POTW;
- (2) The Industrial User has not been in significant noncompliance, as defined in § 403.8(f)(2)(viii), for any time in the past two years;
- (3) The Industrial User does not have daily flow rates, production levels, or pollutant levels that vary so significantly that decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions.

AN. New Source.

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act

which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source, if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- (a) Begun, or caused to begin as part of a continuous on-site construction program;
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or;
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

- AO. New User. A "new user" is not necessarily a "new-source" and is defined as a user that applies to the City for a new building permit or any person who occupies an existing building and plans to discharge wastewater to the City's collection system after the effective date of this ordinance. Any person that buys an existing facility that is discharging non-domestic wastewater will be considered an "existing user" if no significant changes are made in the operation.
- AP. Non-Significant Categorical Industrial User. A Categorical Industrial User that meets the restrictions laid out in Section 1.3 BG (3) of this Ordinance.
- AQ. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation).
- AR. Permittee. A person or user issued a wastewater discharge permit, or discharge authorization.
- AS. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all Federal, State, or local governmental entities.
- AT. pH. A measure of the acidity or alkalinity of a substance, expressed in standard units.
- AU. Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor].
- AV. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means (except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard).
- AW. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- AX. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits established by the City (POTW).

- AY. Process Wastewater. Process Wastewater is Industrial Waste minus Cooling Water/Non-Contact Cooling Water.
- AZ. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Sections 2.1 (A) and (B) of this ordinance.
- BA. Publicly Owned Treatment Works (POTW). A "treatment works," as defined by Section 212 of the Act (33 USC 1292) which is owned by the City. This definition includes all devices facilities, or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means the City of Everett Water Pollution Control Facility.
- BB. Sanitary Flow: Sewage.
- BC. Septic Tank Waste. Any domestic and/or residential sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- BD. Sewage. Human excrement and gray water (household showers, dishwashing operations, food preparation, etc.)
- BE. Sewer. Any pipe, conduit, ditch, or other device used to collect and transport sewage from the generating source.
- BF. Shall, May. "Shall" is mandatory, "may" is permissive.
- BG. Significant Industrial User (SIU). Except as provided in paragraphs (BG)(3) and (BG)(4) of this section, the term Significant Industrial User means:
- (1) All Industrial Users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and
 - (2) Any other Industrial User that:
 - (a) discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - (b) contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment plant; or
 - (c) is designated as such by the Control Authority on the basis that the Industrial User has a reasonable potential for adversely affecting the

POTW's operation or for violating any Pretreatment Standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

- (3) The Control Authority may determine that an Industrial User subject to categorical Pretreatment Standards under § 403.6 and 40 CFR chapter I, subchapter N is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - (a) The Industrial User, prior to the Control Authority's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
 - (b) The Industrial User annually submits the certification statement required in § 403.12(q) together with any additional information necessary to support the certification statement; and
 - (c) The Industrial User never discharges any untreated concentrated wastewater.
- (4) Upon a finding that an Industrial User meeting the criteria in paragraph (BG)(2)(b) of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from an Industrial User or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such Industrial User is not a Significant Industrial User.

BH. Slug Load. Any discharge at a flow rate or concentration which could cause a violation of the discharge standards in Section 2.1 through 2.4 of this ordinance or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge, or any discharge greater than or equal to five (5) times the amount or concentration allowed by permit or this ordinance This 5X level is based on an instantaneous measurement.

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

BJ. State. The State of Washington.

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

- BL. Total Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering and is amenable to measurement by the methods described in Standard Methods for the examination of Water and Wastewater, current approved edition.

- BM. Toxic Pollutant. One of the pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by EPA under Section 307 (33 USC 1317) of the Act, or other pollutants as may be promulgated.

- BN. Treatment Plant Effluent. The discharge from the POTW into waters of the United States.

- BO. User or Industrial User. A source of indirect discharge. The source shall not include "Domestic User" as defined herein.

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

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

- BR. Wastewater Treatment Plant or Treatment Plant or Pollution Control Facility. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

- BS. Zero Discharge Permit. A Permit for a Categorical User that operates its processes so that no Industrial Waste is discharged to the POTW.

The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

1.4 Abbreviations

The following abbreviations shall have the designated meanings:

AKART.....All Known Available and Reasonable Technology
ASPP.....Accidental Spill Prevention Plan
BMPs.....Best Management Practices
BODBiochemical Oxygen Demand
CFR.....Code of Federal Regulations
CODChemical Oxygen Demand

CSO.....	Combined Sewer Overflow
EPA.....	US Environmental Protection Agency
FOG.....	Fats, Oils, and Grease
GPD.....	Gallons Per Day
L.....	liter
LEL.....	Lower Explosive Limit
mg.....	milligrams
mg/L.....	milligrams per liter
NSCIU.....	Non-Significant Categorical Industrial User
NPDES.....	National Pollutant Discharge Elimination System
O&M.....	Operation and Maintenance
POTW.....	Publicly Owned Treatment Works
RCRA.....	Resource Conservation and Recovery Act
SIC.....	Standard Industrial Classifications
SSO.....	Sanitary Sewer Overflow
SWDA.....	Solid Waste Disposal Act (42 USC 6901, et seq.)
TSS.....	Total Suspended Solids
USC.....	United States Code

SECTION 2 - GENERAL REQUIREMENTS

2.1 *Prohibited Discharge Standards*

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

- B. Specific Prohibitions: No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
 - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater having a pH less than 5.0 or more than 11.0 (unless in compliance with Section 2.5 of this Ordinance) or otherwise causing corrosive structural damage to the POTW or equipment;
 - (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one quarter inch (1/4");
 - (4) Pollutants, including oxygen-demanding pollutants (BOD, COD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
 - (5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C) unless the Approval Authority, upon the request of the POTW, approves alternate temperature limits;
 - (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
 - (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

- (8) Trucked or hauled pollutants [except Domestic Sewage or Septic Tank Wastes] unless authorized by the director, and at discharge points designated by the City.
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life;
- (11) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director in compliance with applicable State or Federal regulations;
- (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Director;
- (13) Any sludges, screenings, or other residues from the pretreatment of industrial or commercial wastes or from industrial or commercial processes, except as authorized by the Director;
- (14) Medical wastes, except as specifically authorized by the Director;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances in amounts which may cause excessive foaming in the POTW;
- (17) Any liquid, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion meter, at the point of discharge into the system (or at any point in the system), be more than five (5%) per cent nor any

single reading over ten (10%) per cent of the lower explosive limit (LEL) of the meter.

- (18) Animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes in amounts that cause interference in the POTW.
- (19) Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits.
- (20) Any wastewater, which in the opinion of the Director can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under special agreement by the Director (except that no special waiver shall be given from categorical pretreatment standards).
- (21) The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septage, or other wastewater unless said person has first obtained testing and approval as may be generally required by the City of Everett and paid all fees assessed for the privilege of said discharge.
- (22) Any hazardous or dangerous wastes as defined in rules published by the State of Washington (WAC 173-303) and/or in EPA rules 40 CFR Part 261.
- (23) Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA)
- (24) Any slug load.
- (25) Any substance which may cause the POTW's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse, or to interfere with the reclamation process.
- (26) Fats, oils and grease in amounts that may cause obstructions or maintenance problems in the collection/conveyance system, or interference in the POTW.
- (27) The use of the treatment and controls located at the POTW for wastewater treatment required by a National Emission Standards for Hazardous Air

Pollutants for Source Categories (NESHAP) under 40 CFR Part 63 is prohibited. The discharge of any untreated wastewater regulated by a NESHAP also is prohibited. The POTW does not and will not accept a NESHAP regulated waste stream nor provide treatment or controls as an agent for any Industrial User within the meaning of 40 CFR Part 63, including but not limited to 40 CFR § 63.1595.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they are likely to be discharged to the POTW unless the user has in place an accidental spill prevention plan (ASPP)/slug control plan.

2.2 Federal Categorical Pretreatment Standards

The National categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are incorporated herein by reference as if set forth in full in this ordinance.

2.3 State Requirements

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

2.4 Local Limits

The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum allowable discharge limits.

arsenic	0.5	mg/L
cadmium ...	0.24	mg/L
chromium..	5.0	mg/L
copper	3.0	mg/L
cyanide.....	0.65	mg/L
lead.....	1.89	mg/L
mercury	0.1	mg/L
nickel.....	2.83	mg/L
silver	0.49	mg/L
zinc.....	4.00	mg/L
nonpolar fats, oils,	200	mg/L

and grease (NPFOG)

The above limits apply at the point where the wastewater is discharged to the POTW (end of the pipe). Categorical pretreatment standards apply at the end of the process. However, the Director may elect to have local limits apply after pretreatment and/or prior to mixing with dilution flows.

All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Director may impose mass limitations in addition to (or in place of) the concentration based limitations above.

Where a user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply.

The City Council authorizes the Director to revise local limits.

2.5 pH Effluent Limitations Under Continuous Monitoring

- A. Where a permittee continuously monitors the pH of wastewater discharged to the City's sewer system pursuant to a requirement in their discharge permit, the permittee shall maintain the pH of such wastewater within the range set forth in the permit, except excursions from the range are permitted subject to the following limitations:
 - (1). The total time during which the pH values are outside the required range of pH values shall not exceed 2 hours in any calendar month; and
 - (2). No individual excursion from the allowable range of pH values shall exceed 15 minutes.
- B. At no time will the pH value be outside the allowable range of pH values by more than one pH unit.
- C. At no time shall the pH be less than 5.0 pH units.
- D. All batch discharges shall be in compliance with the allowable pH range.
- E. For the purposes of this Ordinance, an excursion is an unintentional and temporary incident in which the pH value of the discharged wastewater exceeds the range set forth in the user's discharge permit.
- F. Temporary pH value excursions that comply with the provisions of this section of the Ordinance will not be considered violations of the user's discharge permit but shall be reported in the pretreatment self-monitoring report with copies of the associated pH recorder charts.

2.6 City's Right of Revision

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

2.7 Special Agreement

The City reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a categorical pretreatment standard or federal pretreatment requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from the Approval Authority in accordance with 403.13.

2.8 Dilution

A user shall not increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on users which he believes may be using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

2.9 Pretreatment Facilities

- A. General: Users shall provide all known, available, and reasonable methods of prevention, control, and treatment (AKART) as required to comply with this ordinance and shall achieve compliance with all applicable pretreatment standards and requirements set out in this ordinance within the time limitations specified by the EPA, the State, or the Director, whichever is more stringent.

Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the user's expense.

The Director may establish Best Management Practices (BMPs) for particular groups of users. These BMPs may include, but are not limited to types or methods of pretreatment technology to be used, methods of source control, minimum maintenance requirements, dragout prevention practices, spill

prevention practices, or other requirements as deemed necessary. The Director may establish BMPs in lieu of numerical limits for non-categorical users.

When required by the Director, an engineering report as required by, and complying with, WAC 173-240, including detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the City under the provisions of this ordinance.

Within ninety (90) days after the completion of the wastewater pretreatment facility, the discharger shall furnish as built drawings and its operations and maintenance procedures. Any subsequent significant changes in the pretreatment facility or method of operation shall be reported to and approved by the Director prior to the initiation of the changes.

New sources, and new users determined to be Significant Industrial Users (SIU's) must have pretreatment facilities installed and operating, if required, prior to discharge.

- B. Grease Control/Pretreatment: Measures to control, recycle, remove or pretreat for grease that are applicable to food service establishments, other than SIUs, are subject to the Grease Control Ordinance, #XXXXXXXXXX.
- C. Other Interceptors: Dischargers who operate automatic and coin-operated laundries, car washes, filling stations, commercial garages or similar businesses having any type of washing facilities (including pressure washing and steam cleaning) or any other dischargers producing grit, sand, oils, lint, or other materials which have the potential of causing partial or complete obstruction of the building side sewer or other areas in the POTW shall, upon order of the Director, install approved interceptors, oil/water separators, or tanks in accordance with specifications adopted by the City of Everett such that excessive amounts of oil, sand and inert solids are effectively prevented from entering the POTW.
- D. Installation and Maintenance: All grease interceptors, oil/water separators, settling tanks and grit traps shall be properly installed, maintained and operated by the discharger at his own expense. The installation shall be kept in continuous operation at all times, and shall be maintained to provide efficient operation. Cleaning must be performed by a service contractor qualified to perform such cleaning, or in a manner approved by the Director. All material removed shall be disposed of in accordance with all state and federal regulations. Records and certification of maintenance shall be made readily available to the Director for review and inspection, and must be maintained for a minimum of three (3) years.

If a failure to maintain settling tanks, grit traps, grease interceptors, or oil/water separators results in partial or complete blockage of the building sewer, private sewer system discharging to the City Sewer System, or other parts of the City Sewer System, or adversely affects the treatment or transmission capabilities of the POTW, or requires excessive maintenance by the City, or poses a possible health hazard, the discharger responsible for the facilities shall be subject to the remedies herein, including cost recovery, enforcement and penalties.

2.10 *Deadline for Compliance with Applicable Pretreatment Requirements*

Compliance by existing sources (categorical users) covered by Categorical Pretreatment Standards shall be within 3 years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate Standard. The City shall establish a final compliance deadline date for any categorical user when the local limits for said user are more restrictive than EPA's Categorical Pretreatment Standards. The City may establish a final compliance deadline date for any existing user not covered by Categorical Pretreatment Standards.

New source dischargers, and "new users" that are determined to be Significant Industrial Users (SIU's), are required to comply with applicable pretreatment standards within the shortest feasible time (not to exceed 90 days from the beginning of discharge). New Sources, and "new users" that are determined to be Significant Industrial Users (SIU's), shall install and have in operating condition, and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

Any wastewater discharge permit issued to a categorical user shall not contain a compliance date beyond any deadline date established in EPA's Categorical Pretreatment Standards. Any other existing user that is considered to be an SIU, or a categorical user 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 to insure compliance within the shortest time feasible.

2.11 *Additional Pretreatment Measures*

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

- B. When determined necessary by the Director, each user discharging into the POTW, shall install and maintain, on his property and at his expense, a suitable storage and flow-control facility to insure equalization of flow. The Director may require the facility to be equipped with alarms and a rate of discharge controller, the regulation of which shall be determined by the Director. A wastewater discharge permit, or Discharge Authorization (DA) may be issued solely for flow equalization.
- C. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at his expense.
- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection system.
- E. When a new building is constructed without a tenant, and has any sewers which are intended to serve wastes other than sanitary or domestic waste, a three compartment interceptor approved by the Director shall be installed.

2.12 Accidental Discharge/Slug Control Plans

The Director may require any user to develop and implement an accidental discharge/slug control plan. Where deemed necessary by the City, facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the user's cost and expense.

An accidental spill prevention plan (ASPP)/slug control plan showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval before implementation. The City shall determine which user is required to develop a plan and require said plan to be submitted within 90 days after notification by the City. Each user shall implement its ASPP as submitted or as modified after such plan has been reviewed and approved by the City. Review and approval of such plans and operating procedures by the City shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of this Section.

- A. Any user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:
 - (1) Description of discharge practices, including non-routine batch discharges;

- (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the standards in Sections 2.1 through 2.4 of this ordinance; and
 - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.
- B. Users shall notify the Everett Water Pollution Control Facility immediately upon the occurrence of a "slug" or "accidental discharge" of substances regulated by this ordinance. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected user shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the City on account thereof under state or federal law.
- C. Within five (5) days following an accidental discharge, the user shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this Ordinance or other applicable law.
- D. When required by the Director, signs shall be permanently posted in conspicuous places on the user's premises advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

2.13 Septic Tank Wastes

- A. Residential/domestic septic tank waste may be introduced into the POTW only at a designated receiving structure within the treatment plant area, or at a site authorized by the Director and at such times as are established by the Director. Such wastes shall not violate this ordinance or any other requirements established or adopted by the City, except as authorized by the Director.

Permits for individual vehicles to use such facilities shall be issued by the City. Wastewater discharge permits may be issued to each septage hauling business, and may encompass more than one vehicle.

- B. No load may be discharged without prior consent of the Director. The Director may collect samples of each hauled load to ensure compliance with applicable pretreatment standards. The Director may require the hauler to provide a waste analysis of any load prior to discharge.
- C. Septage haulers shall utilize a waste tracking form (manifest) provided by the Director for every load discharged. Any discharge without a manifest form is an unauthorized discharge and the hauler will receive an administrative fine of not less than \$5,000, and may have their discharge permit revoked or suspended.
- D. Wastewater discharge permit fees for liquid waste haulers shall be established and charged in addition to license and volume fees charged under Ordinance 801-81, as amended. License and volume fees shall be established as part of the user fee system utilizing the principles established in Section 13 of this ordinance.

SECTION 3 - WASTEWATER DISCHARGE PERMIT REQUIREMENTS

No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

The Director may require other users, including liquid waste haulers, to obtain wastewater discharge permits (as necessary) to carry out the purposes of this ordinance.

3.1 *Wastewater Discharge Permitting: Existing SIU*

Any SIU that was discharging wastewater into the POTW prior to the effective date of this ordinance and that wishes to continue such discharges in the future shall, within sixty [60] days after notification by the Director submit a permit application to the City in accordance with Section 3.5 of this ordinance, and shall not cause or allow discharges to the POTW to continue after 90 days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Director.

The City's notification to SIUs covered by categorical pretreatment standards will be in reasonable time to insure that the SIUs complies with the 180 day submittal deadline date established in 40 CFR §403.12 (b.).

3.2 *Wastewater Discharge Permitting: New Source and "New user"*

At least 90 days prior to the anticipated start-up, new sources, sources that become a user subsequent to the promulgation of an applicable categorical pretreatment standard, and "new users" that are determined to be Significant Industrial Users (SIU), shall apply for a wastewater discharge permit and will be required to submit to the City at least the information listed in paragraphs (A)-(E) of Section 3.5 of this ordinance. A new source, or "new user" that is determined to be a Significant Industrial User (SIU), cannot discharge without first receiving a wastewater discharge permit from the City. New sources, and "new users" that are determined to be Significant Industrial Users (SIU's), shall also be required to include in their application information on the method of pretreatment the user intends to use to meet applicable pretreatment standards. New Sources, and "new users" that are determined to be Significant Industrial Users (SIU's), shall give estimates of the information requested in paragraphs (D) and (E) of Section 3.5 of this ordinance.

3.3 Wastewater Discharge Permitting: Extrajurisdictional Users

Any existing user located beyond the City limits required to obtain a wastewater discharge permit shall submit a wastewater discharge permit application as outlined in Section 3.1 of this ordinance.

New Source, and "new users" that are determined to be Significant Industrial Users (SIU's), located beyond the City limits required to obtain a wastewater discharge permit shall comply with Section 3.2 of this ordinance.

3.4 Wastewater Discharge Permitting: Zero Discharge Permits

Any categorical user that operates its regulated processes so that no industrial waste is discharged to the POTW may request that a zero discharge permit (ZDP) be issued by the City. To be eligible for a ZDP the user shall demonstrate to the Director's satisfaction that no industrial waste will be discharged and shall either permanently seal all accesses to the POTW other than those required for disposal of domestic sewage or install shutoff devices that will accept City installed, tamper evident seals. Breaking this seal without prior authorization by the Director shall be a violation of the ZDP and this ordinance.

3.5 Wastewater Discharge Permitting: Middle Tier Categorical Industrial User

Any categorical user that operates its regulated processes so that it complies with the requirements in Section 1.3 AL of this Ordinance may request that it be designated a Middle Tier Categorical Industrial User. If the Director agrees with that request, the User's discharge permit will be modified to incorporate the applicable provisions of 40 CFR 403. If, at any time, the User no longer complies with the requirements in Section 1.3 AL of this Ordinance, it shall immediately notify the Director and comply with the backup reporting requirements contained in the permit.

3.6 Wastewater Discharge Permitting: Non-Significant Categorical Industrial User

Any categorical user that operates its regulated processes so that it complies with the requirements in Section 1.3 BG (3) of this Ordinance may request that it be designated a Non-Significant Categorical Industrial User. If the Director agrees with that request, the User will be issued a Non-Significant CIU permit and shall comply with the requirements of that permit. If, at any time, the User no longer complies with the requirements in

Section 1.3 BG (3) of this Ordinance, it shall immediately notify the Director and comply with the backup reporting requirements contained in the permit.

3.7 Wastewater Discharge Permit Application Contents

All users required to obtain a wastewater discharge permit must submit, at a minimum, the following information. The Director shall approve a form to be used as a permit application. Categorical users submitting the following information shall have complied with 40 CFR 403.12(b).

- A. Identifying information. The user shall submit the name and address of the facility including the name of the operator and owners;
- B. Permits. The user shall submit a list of any environmental control permits held by or for the facility;
- C. Description of operations. The user shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such Industrial User, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW; number and type of employees; hours of operation; each product produced by type, amount, process or processes, and rate of production; type and amount of raw materials processed (average and maximum per day) and the time and duration of discharges. This description should also include a schematic process diagram which indicates points of discharge to the POTW from the regulated or manufacturing processes. Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.
- D. Flow Measurement.
 - (1) Categorical User:

The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

 - (i) Regulated or manufacturing process streams; and
 - (ii) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e).
 - (2) Non-Categorical User

The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

- (i) Total process flow, wastewater treatment plant flow, total plant flow or individual manufacturing process flow as required by the Director.

The City may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

E. Measurements of pollutants.

(1) Categorical User:

- (i) The user shall identify the applicable pretreatment standards for each regulated or manufacturing process.
- (ii) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass) where required by the Categorical Pretreatment Standard or as required by the City of regulated pollutants (including standards contained in Sections 2.1 through 2.4 of this ordinance, as appropriate) in the discharge from each regulated or manufacturing process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Section 5.
- (iii) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- (iv) Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) for a categorical user covered by a categorical pretreatment standard this adjusted limit along with supporting data shall be submitted as part of the application.

(2) Non-Categorical User

- (i) The user shall identify the applicable pretreatment standards for its wastewater discharge.
- (ii) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by the City) of regulated pollutants contained in Sections

2.1 through 2.4 of this ordinance, as appropriate in the discharge. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Section 5 of this ordinance.

- (iii) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- (iv) Where the Director developed alternate concentration or mass limits because of dilution this adjusted limit along with supporting data shall be submitted as part of the application.

F. Certification. A statement, reviewed by an authorized representative of the user and certified by a qualified professional as outlined in Section 3.8 of this ordinance, indicating whether the applicable 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 user to meet the applicable Pretreatment Standards and Requirements;

G. Compliance Schedule. If additional pretreatment and/or O and M will be required to meet the applicable Pretreatment Standards, the City will establish the shortest schedule by which the user will provide such additional pretreatment and/or O and M. The schedule shall conform with the requirements of Section 4.4. The completion date in this schedule shall not be later than the compliance date established pursuant to Section 2.9 of this ordinance.

- (1) Where the user's categorical Pretreatment Standard has been modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR 403.13) at the time the user submits the report required by this paragraph, the information required by paragraphs (D) and (E) of this section shall pertain to the modified limits.
- (2) If the categorical Pretreatment Standard is modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR 403.13) after the user submits the report required by paragraphs (D) and (E) of this section, then a new report shall be submitted by the user within 60 days after the modified limit is approved.

H. Any other information as may be deemed necessary by the Director to evaluate the wastewater discharge permit application. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

3.8 Signatory and Certification Requirement

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

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

3.9 Wastewater Discharge Permit Decisions

The Director will evaluate the data furnished by the user and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application, the Director will determine whether or not to issue a wastewater discharge permit. Upon a determination to issue a wastewater discharge permit, the user shall fulfill the public notice requirements, and publish in the largest local daily newspaper, its application for, and the City's intent to issue, a wastewater discharge permit. The manner, format, content and length of time for the publication shall be as prescribed by the Director, but at no time shall be less stringent than the requirements in WAC 173-216-090. The cost of publication shall be paid for by the applicant. If there have been no adverse comments when the public comment period has elapsed, the application shall be considered complete. The permit shall be issued within thirty [30] days of full evaluation and acceptance of the data furnished. The Director may deny any application for a wastewater discharge permit.

3.10 Wastewater Discharge Permit Contents

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

- A. Wastewater discharge permits must contain the following conditions:
 - (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

- (2) A statement that the wastewater discharge permit is non-transferable without prior notification to and approval from the City, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Applicable pretreatment standards and requirements, including any special State requirements;
- (4) Self monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
- (5) Requirement for immediate notification to the City where self-monitoring results indicate non-compliance;
- (6) Requirement to report a by-pass or upset of a pretreatment facility;
- (7) Requirement for the SIU who reports non-compliance to repeat the sampling and analysis and submit results to the City within 30 days after becoming aware of the violation.
- (8) A statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule.

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

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

- (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (7) A statement that compliance with the 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 wastewater discharge permit;
- (8) Any special agreements the Director chooses to continue or develop between the City and user;
- (9) Other conditions as deemed appropriate by the Director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

3.11 Wastewater Discharge Permit Appeals

Any person, including the user, may petition the Director to reconsider the terms of a wastewater discharge permit within thirty (30) days of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. If the Director fails to act within sixty (60) days of the receipt of an appeal, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.
- E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a petition for review with the Snohomish County Superior Court within thirty (30) days following the final administrative wastewater discharge permit decision.

3.12 Wastewater Discharge Permit Duration

Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire. The wastewater discharge permit will expire at 11:59 PM on the specified date.

3.13 Wastewater Discharge Permit Modification

The Director may modify the wastewater discharge permit for good cause including, but not limited to, the following:

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- H. To correct typographical or other errors in the waste water discharge permit; or
- I. To reflect a transfer of the facility ownership and/or operation to a new owner/operator.
- J. Any Permit Modification may be appealed under Section 3.9 of this ordinance.

3.14 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least ninety (90) days advance notice to the Director and the Director approves the wastewater discharge permit transfer. The notice to the Director must include a written certification by the new owner and/or operator which:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Provided that the above occurs and that there were no significant changes to the manufacturing operation or wastewater discharge, the new owner will be considered an existing user and be covered by the existing limits and requirements in the previous owner's permit. Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable as of the date of facility transfer.

3.15 *Wastewater Discharge Permit Revocation*

Wastewater discharge permits may be revoked for the following reasons:

- A. Failure to notify the City of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the City of changed conditions;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the City timely access to the facility premises and records;
- G. Failure to meet discharge limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;

- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of a permitted facility;
- M. If the City has to invoke its emergency provision as cited in Section 9.7 of the Ordinance;
- N. Violation of any pretreatment standard or requirement;
- O. Violation of any terms of the wastewater discharge permit;
- P. Violation of any provisions of this ordinance; or
- Q. Violation of any terms of an order of the Director issued under this ordinance.

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

3.16 *Wastewater Discharge Permit Re-issuance*

A user, required to have a wastewater discharge permit, shall apply for wastewater discharge permit re-issuance by submitting a complete wastewater discharge permit application, in accordance with Section 3.7 of this ordinance, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit. A user, whose existing wastewater discharge permit has expired and has submitted its re-application in the time period specified herein, shall be deemed to have an effective wastewater discharge permit until the City issues or denies the new wastewater discharge permit. A user, whose existing wastewater discharge permit has expired and who failed to submit its re-application in the time period specified herein, will be deemed to be discharging without a wastewater discharge permit.

SECTION 4 - REPORTING REQUIREMENTS

4.1 *Baseline Monitoring Reports*

- A. Within either one hundred and eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4) (whichever is later) existing categorical users currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the City a report which contains the information listed in Section 3.7 of this ordinance.

At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the City a report which contains the information listed in Section 3.7 of this ordinance.

A new source may be required to submit an engineering report to the Director and comply with WAC 173-240; the report should explain the method of pretreatment a new source intends to use to meet applicable categorical standards. A new source shall give estimates of its anticipated flow and quantity of pollutants discharged.

4.2 *Final Compliance Report (Initial Compliance Report)*

- A. Within 90 days following the date for final compliance by the Significant Industrial User with applicable pretreatment standards and requirements set forth in this ordinance, in a wastewater discharge permit, or within 30 days following commencement of the introduction of wastewater into the POTW by a new source or "new users" considered by the City to fit the definition of SIU, the affected user shall submit to the City a report containing the information outlined in Paragraph (D)-(F) of Section 3.7 of this ordinance.
- B. For users subject to equivalent mass or concentration limits established by the City in accordance with procedures established in 40 CFR 403.6 (c), this report shall contain a reasonable measure of the user's long term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.

4.3 Periodic Compliance Report

- A. Any user that is issued a permit under this ordinance and performs self-monitoring shall submit to the City during the months of June and December, unless required on other dates or more frequently by the City, a report indicating the nature of the effluent over the previous reporting period. The frequency of monitoring shall be as prescribed within the permit. At a minimum, except for zero discharge users, Middle Tier CIUs, and NSCIUs, users shall sample their discharge at least twice per year.
- B. The report shall include a record of the concentrations (and mass if specified in the wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations, and shall also include any additional information required by this ordinance or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported.

If a user sampled and analyzed more frequently than what was required by the City or by this ordinance, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge during the reporting period.

- C. Any user subject to equivalent mass or concentration limits established by the City or by unit production limits specified in the applicable categorical standards, shall report production data as outlined in Section 4.2 (B) of this ordinance.
- D. Zero discharge users shall submit periodic reports as required by the Director stating that no process waste has been discharged to the POTW.
- E. Middle Tier Significant CIUs and NSCIUs shall submit reports as required in their control mechanisms.
- F. If the City calculated limits to factor out dilution flows or non-regulated flows, the user will be responsible for providing flows from the regulated process flows, dilution flows and non-regulated flows.
- G. 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.
- H. Sampling shall be representative of the user's daily operations and shall be taken in accordance with the requirements specified in Section 5 of this ordinance.

- I. The City may require reporting by users that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent or determine any other factor that is related to the operation and maintenance of the sewer system.
- J. The City may require self-monitoring by the user or, if requested by the user, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this section. If the City agrees to perform such periodic compliance monitoring, it may charge the user for such monitoring, based upon the costs incurred by the City for the sampling and analyses. Any such charges shall be added to the normal sewer charge and shall be payable as part of the utility bills. The City is under no obligation to perform periodic compliance monitoring for a user.

4.4 Compliance schedules for meeting applicable pretreatment standards

- A. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
- B. No increment referred to in paragraph (A) of this section shall exceed 9 months.
- C. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the City including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports.

4.5 Notification of Significant Production Changes

Any user operating under a wastewater discharge permit incorporating mass or concentration limits based on production levels shall notify the City within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not providing a notice of such anticipated change will be required to comply with the existing limits contained in its wastewater discharge permit.

4.6 Hazardous Waste Notification

Any user that is discharging 15 kilograms of hazardous wastes as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) is required to provide a one time notification in writing to the City, EPA Regional Waste Management Division Director, and the Hazardous waste division of the NWRO of the Washington State Department of Ecology. Any existing user exempt from this notification, shall comply with the requirements contained herein within 30 days of becoming aware of a discharge of 15 kilograms of hazardous wastes in a calendar month or the discharge of acutely hazardous wastes to the City sewer system.

Such notification shall include:

- A. The name of the hazardous waste as set forth in 40 CFR Part 261,
- B. The EPA Hazardous waste number; and
- C. The type of discharge (continuous, batch, or other).
- D. If an industrial user discharges more than 100 kilograms of such waste per calendar per month to the sewer system, the notification shall also contain the following information to the extent it is known or readily available to the industrial user:
 - (1) an identification of the hazardous constituents contained in the wastes,
 - (2) an estimation of the mass and concentration of such constituents in the wastestreams discharged during that calendar month, and
 - (3) an estimation of the mass of constituents in the wastestreams expected to be discharged during the following 12 months.

These notification requirements do not apply to pollutants already reported under the self-monitoring requirements.

Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a user shall notify the City of the discharge of such a substance within 90 days of the effective date of such regulations.

In the case of any notification made under this paragraph, an industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes

generated to the degree it has determined to be economically practical. Discharging Hazardous waste to the sewer system is prohibited as per section 2.1 of this ordinance

4.7 *Notice of potential problems, including accidental spills, slug loadings*

Any user shall notify the City immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined in Section 1.3 of this ordinance. The notification shall include the concentration and volume and corrective action. Steps being taken to reduce any adverse impact should also be noted during the notification. Any user who discharges a "slug" (or slugs) of pollutants shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed by the City or on the City under state or federal law.

4.8 *Non-Compliance Reporting*

If sampling performed by a user indicates a violation, the user shall notify the City within 24 hours of becoming aware of the violation. The user shall also repeat the sampling within 5 days and submit the results of the repeat analysis to the City within 30 days after becoming aware of the violation, except the user is not required to resample if:

- A. The City performs sampling at the user at a frequency of at least once per month, or
- B. The City performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

4.9 *Notification of changed discharge*

All users shall promptly notify the City in advance of any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, and the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12 (p).

4.10 *TTO Reporting.*

Categorical users which are required by EPA to eliminate and/or reduce the levels of toxic organics (TTOs) discharged into the sewer system must follow the Categorical Pretreatment Standards for that industry. Those users must also meet the following requirements:

- A. Must sample, as part of the initial application requirements, for the organics listed under the TTO limit reasonably expected to be present;
- B. May submit a statement that no TTOs are used at the facility and/or develop a solvent management plan in lieu of continuously monitoring for TTO, if authorized by the Director:

If allowed to submit a statement or develop a solvent management plan, the user must routinely submit a certification statement as part of its self-monitoring report that there has been no dumping of concentrated toxic organic into the wastewater and that it is implementing a solvent management plan as approved by the City. The Director may require the development and implementation of a solvent management plan in addition to monitoring for TTO.

4.11 Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the City as the Director may require.

4.12 Record Keeping

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

4.13 Timing

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

SECTION 5 - SAMPLING AND ANALYTICAL REQUIREMENTS

5.1 *Sampling Requirements for Users.*

- A. A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. The Director will determine on a case-by-case whether the user will be able to composite the individual grab samples. For all other pollutants, 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 user that demonstrates that flow-proportional is not feasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.
- B. 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 and/or contained in the user's wastewater discharge permit. For categorical users, if other wastewaters are mixed with the regulated wastewater prior to pretreatment the user 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 Applicable Categorical Pretreatment Standards. For other SIUs, for which the City has adjusted its local limits to factor out dilution flows, the user shall measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standard(s).
- C. 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 user. If a user sampled and analyzed more frequently than what was required in its wastewater discharge permit, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge as part of its self-monitoring report.

5.2 *Analytical Requirements*

All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, 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, sampling and analyses must be performed in accordance with procedures approved by the EPA.

All analyses performed to establish compliance and used in compliance reporting shall be performed by a laboratory accredited by the Washington State Department of Ecology, Quality Assurance Division in accordance with 173-50 WAC. Laboratories must be accredited for the analyses for which they are performing.

To ensure that the reported data is valid for determining compliance with requirements, all data shall have a detection level (DL) no greater than twenty-five percent (25%) of the regulatory limit included in this ordinance or applicable State or Federal regulation. (i.e. for Pb, with a regulatory limit of 1.89 mg/L, the DL shall be no greater than 0.47 mg/L.)

5.3 *City Monitoring of User's Wastewater*

The City will follow the same procedures as outlined in Sections 5.1 and 5.2 of this ordinance.

SECTION 6 - COMPLIANCE MONITORING

6.1 *Inspection and Sampling*

Continued connection and use of the Everett Municipal sewer system shall be contingent on the right of the City to inspect and sample all discharges into the system. The City shall have the right to enter the facilities of any user for the purpose of the enforcement of this ordinance and Ordinance 1508-88, as amended, and to determine that any wastewater discharge permit or order issued hereunder, is being met and whether the user is complying with all requirements thereof. Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Director shall have the right to set up on the user's property, or require installation of such devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the user.
- D. Unreasonable delays in allowing the Director access to the user's premises shall be a violation of this ordinance.

6.2 *Monitoring Facilities*

Each user shall provide and operate at its own expense a monitoring facility to allow inspection, sampling, and flow measurements of each sewer discharge to the City. Each monitoring facility shall be situated on the user's premises, except where such a location would be impractical or cause undue hardship on the user, the City may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. The Director, whenever applicable, may require the construction and maintenance of sampling facilities at other locations (for example, at the end of a manufacturing line, wastewater treatment system).

There shall be ample room in or near such sampling facility to allow accurate sampling, flow measurement and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications.

The Director may require the user to install monitoring equipment as necessary. All devices used to measure wastewater flow and quality shall be maintained and calibrated in accordance with manufacturers' recommendations to ensure their accuracy.

6.3 Search Warrants

If the Director has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect as part of a routine inspection program of the City designed to verify compliance with this ordinance or any wastewater discharge permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Director shall seek issuance of a search and/or seizure warrant from the Everett Municipal Court, the Everett District Court, or the Snohomish County Superior Court. Such warrant shall be served at reasonable hours by the Director and may be accomplished in the in the company of a uniformed police officer of the City.

6.4 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.

SECTION 7 - CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from City inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the City, that the release of such information would divulge information, processes or methods of production that are exempt from disclosure under the Public Records Act at Chapter 42.56 RCW, or as hereafter amended,.

When requested and demonstrated by the user furnishing a report that such information should be held confidential, the City shall make reasonable efforts to protect the portions of a report which might disclose trade secrets or secret processes from inspection by the public; Such information, however, shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report.

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

SECTION 8 - PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE

The City shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users that, during the previous twelve (12) months, were in significant non-compliance with applicable pretreatment standards and requirements. The term significant non-compliance shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a pretreatment standard or requirement that the City believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public);
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report non-compliance; or
- H. Any other violation(s) that the City determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 9 - ADMINISTRATIVE ENFORCEMENT REMEDIES

9.1 *Notification of Violation (Notice of Violation, NOV)*

When the Director finds that a user has violated (or continues to violate) any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may serve upon that user a written Notice of Violation. The Director may select any means of service which is reasonable under the circumstances.

Within seven calendar (7) days of the receipt 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 by the user to the Director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

9.2 *Consent Orders*

The Director may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for non-compliance. Such documents will include specific action to be taken by the user to correct the non-compliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 9.4 and 9.5 of this ordinance and shall be judicially enforceable. Use of a Consent Order shall not be a bar against, or prerequisite for, taking any other action against the user.

9.3 *Show Cause Hearing*

The Director may order a user which has violated or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten business (10) days prior to the hearing. Such notice may be served on any authorized

representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

9.4 Compliance Orders

When the Director finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may issue an order to the user responsible for the discharge directing that the user come into compliance within a time specified in the order. Compliance Orders may require users to refrain from certain activities, install additional pretreatment equipment, increase self monitoring, use best management practices designed to minimize the amount of pollutants discharged to the sewer. If the user does not come into compliance within the time specified in the order, sewer service may be discontinued. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

9.5 Cease and Desist Orders

When the Director finds that a user has violated (or continues to violate) any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, 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:

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

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

9.6 Administrative Fines

- A. When the Director finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may fine such user in an amount not less than \$250 and not to exceed \$10,000. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation. Said Administrative fines shall constitute a sewer

service surcharge, and upon assessment, shall be subject to collection in the same manner as all other sewer utility rates, charges and penalties.

- B. Unless other arrangements have been made with, and authorized by the Director, unpaid charges, fines, and penalties shall accrue thereafter at a rate of one percent (1%) per month. After 90 days, if charges, fines, and penalties have not been paid, the City may revoke the user's discharge permit.
- C. Users desiring to appeal and dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within ten calendar (10) days of being notified of the fine. Upon receipt of a timely appeal, the Director shall set a date and time for an appeal hearing, but in no case shall the hearing be set more than thirty business (30) days from the receipt of the timely notice of appeal. The appellant shall be notified in writing of the date, time, and place for the appeal hearing. The Director or his/her designee shall serve as the Hearing Examiner. In the event the user's appeal is successful, any payments made shall be returned to the user. Affirmation or modification of an administrative fine by the Public Works Director shall relate back to the original date of assessment.

The City shall recover the costs of preparing administrative enforcement actions, such as notices and orders, including the cost of additional inspections, sampling and analysis, and may add them to the fine.

- D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.
- E. Users seeking judicial review of administrative fines must do so by filing a Petition for Review in the Snohomish County Superior Court within thirty calendar (30) days of the decision of the Director.

9.7 Emergency Suspensions

The Director may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons.

The Director may also immediately suspend a user's discharge (after informal notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

- A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director shall take such steps as

deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals.

The Director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed. If the Director does not allow the user to recommence its discharge within 15 days of the emergency suspension, the Director shall initiate termination proceedings pursuant to Section 9.8 of this ordinance.

- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director prior to the date of any show cause or termination hearing under Sections 9.3 and 9.8 of this ordinance.

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

9.8 Termination of Discharge (Non-Emergency)

In addition to the provisions in Section 3.15 of this ordinance, any user that violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
- E. Violation of the pretreatment standards in Section 2 of this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity for hearing pursuant to Section 9.9 of this ordinance to dispute the proposed termination action. Initiation of a termination proceeding by the City shall not be a bar to, or a prerequisite for, taking any other action against the user.

9.9 Appeal Procedures

A. Appeals.

1. Any user who has been subject to an enforcement action by the City and who seeks to dispute a Notice of Violation, order, fine, or other action of the Director may file an appeal. No other person may appeal an enforcement action.
2. The notice of appeal must be filed in writing and received by the Director, in writing, within ten (10) calendar days of the receipt of the disputed action or proposed action. If the notice of appeal is not received by the Director within the 10 day period, the right to an appeal is waived. The notice of appeal shall state with particularity the basis upon which the appellant is disputing the action taken or proposed to be taken.
3. Upon receipt of a timely notice of appeal, the Director shall set a date and time for an appeal hearing, but in no case shall the hearing be set more than sixty (60) days from the receipt of the timely notice of appeal. The appellant shall be notified in writing of the date, time, and place for the appeal hearing. The Director or his/her designee shall serve as the hearing examiner and be the presiding officer at the hearing.

B. Appeal Hearing.

1. Content of Notice of hearing. The notice of hearing shall include:
 - (a) Names and mailing addresses of all parties to whom notice is being given, and if known, the names and addresses of their representatives;
 - (b) If the City intends to appear, the mailing address and telephone number of the office designated to represent the City in the proceeding;
 - (c) The official file or other reference number and name of proceeding;
 - (d) The name, official title, mailing address and telephone number of the presiding officer, if known;
 - (e) A statement of the time, place and nature of the proceeding;
 - (f) A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - (g) A reference to the particular section of the ordinance or regulations involved;
 - (h) A short and plain statement of the matters asserted by the agency; and
 - (i) A statement that a party who fails to attend or participate in a hearing or other stage of an appeal hearing may be held in default.
2. Procedures at hearing. The hearing examiner/presiding officer, who may be the Director, or his or her designee, shall regulate the course of the hearing. The presiding officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence; provided, however, the presiding officer may control the manner and extent of cross-examinations and rebuttal. In the discretion of the presiding officer, all or part of the hearing may be conducted by telephone or other electronic means as

long as each party in the hearing has an opportunity to effectively participate and hear.

3. Rules of evidence. Evidence, including hearsay evidence, is admissible if in the judgment of the presiding officer it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The presiding officer shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious. All testimony of parties and witnesses shall be made under oath or affirmation. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference. Official notice may be taken of (a) any judicially cognizable facts, (b) technical or scientific facts within the City's specialized knowledge, and (c) codes or standards that have been adopted by an agency of the United States, this state or another state, or by a nationally recognized organization or association. A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.
 4. Default. If a party fails to attend or participate in any stage of a hearing, the presiding officer may serve upon all parties a default or other dispositive order, which shall include a statement of grounds for the order. Within seven (7) calendar days after service of a default order, the party against whom it was entered may file a written motion requesting that the order be vacated, stating the grounds for the motion. If the party against whom the default order is entered fails to timely file a motion to vacate or the motion to vacate is not granted, the default order will be the final decision of the City.
 5. Burden of proof. The appellant shall have the burden of proof by a preponderance of the evidence.
- C. Appeal Conclusion.

At the conclusion of the hearing, the hearing examiner shall determine if the disputed action was proper, and shall approve, modify, or rescind the disputed action. The final determination of the hearing examiner shall be in writing, and all parties shall be provided a copy of the final determination. This decision will include findings of fact that are supported by and based on the record. These findings will be entitled to deference on any judicial review.

D. Judicial Review of Appeal.

1. Any party, including the City, the Washington State Department of Ecology, the United States Environmental Protection Agency, or the user/appellant, is entitled to review of the final determination of the hearing examiner in the Snohomish

County Superior Court. Provided, that any petition for review shall be filed no later than thirty (30) calendar days after date of the final determination.

2. Copies of the petition for review shall be served as in all civil actions.
3. The filing of the petition shall not stay enforcement of the final determination except by order of the superior court and on posting of a bond to be determined by the court naming the City as beneficiary.
4. The review shall be conducted by the court without a jury. The record shall be satisfied by a narrative report certified by the hearing examiner and no verbatim record of proceedings before the hearing examiner shall be required to be presented to the superior court.
5. The court may affirm the final determination or remand the matter for further proceedings before the hearing examiner; or the court may reverse the final determination if the substantial rights of the petitioners may have been prejudiced because the final determination was:
 - i. In violation of constitutional provisions; or
 - ii. In excess of the authority or jurisdiction of the hearing examiner; or
 - iii. Arbitrary and capricious.

SECTION 10 - JUDICIAL ENFORCEMENT REMEDIES

10.1 *Injunctive Relief*

When the Director finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may petition the Snohomish County Superior Court through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user.

The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user. Injunctive relief shall be nonexclusive to other remedies available to the City.

10.2 *Civil Penalties*

- A. A user which has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of \$10,000 per violation, per day. 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 Director may recover reasonable attorneys' 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.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for taking any other action against a user.

10.3 Criminal Prosecution

- A. A user who violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a gross misdemeanor, punishable by a fine of not more than \$5,000 and/or one year in jail. Each day a violation occurs shall constitute a separate offense.
- B. A user who introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a gross misdemeanor and be subject to a penalty of not more than \$5,000 and/or one year in jail. Each day a violation occurs shall constitute a separate offense. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- C. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be guilty of a gross misdemeanor, and punished by a fine of not more than \$5,000 and/or one year in jail. Each day a violation occurs shall constitute a separate offense.

In addition, the user shall be subject to:

- 1) the provisions of 18 USC Section 1001 relating to fraud and false statements;
- 2) the provisions of Sections 309 (c) (4) of the Clean Water Act, as amended governing false statements, representation, or certification; and
- 3) the provision of Section 309 (c) (6) of the Clean Water Act, regarding responsible corporate officers.

10.4 Remedies Non-exclusive

The provisions in Sections 8 through 11 of this ordinance are not exclusive remedies. The City reserves the right to take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City reserves the right to take other action against any user when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

SECTION 11 - SUPPLEMENTAL ENFORCEMENT ACTION

11.1 *Performance Bonds*

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

11.2 *Financial Assurances*

The Director may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this ordinance, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to meet pretreatment requirements, and/or restore or repair damage to the POTW caused by its discharge.

11.3 *Service Severance*

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

11.4 *Public Nuisances*

A violation of any provision of this ordinance, wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director.

11.5 *Contractor Listing*

Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or

services to the City. Existing contracts for the sale of goods or services to the City held by a user found to be in significant non-compliance with pretreatment standards or requirements may be terminated at the discretion of the City.

11.6 Publication of Violations and/or Enforcement Actions.

The Director may publish violations and/or enforcement actions at any time, where monetary fines may be inappropriate in gaining compliance, or in addition to monetary fines. Violations and/or enforcement actions may also be published when the Director feels that public notice should be made, or at other appropriate times. The cost of such publications will be recovered from the user.

SECTION 12 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

12.1 Upset

- A. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary non-compliance with applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include non-compliance 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 non-compliance with applicable pretreatment standards if the requirements of paragraph (C) are met.
- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the POTW and treatment plant operator within twenty four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
 - (a) A description of the indirect discharge and cause of non-compliance;
 - (b) The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

- E. A User may appeal any enforcement action due to an upset as provided under Section 9.9 of this ordinance.
- F. Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

12.2 Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for non-compliance with the prohibitions in Section 2.1 A and B (3) through (7) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or (b) no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

12.3 Bypass

- A. For the purposes of this section,
 - (1) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A user may allow any bypass to occur which does not cause applicable pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.

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

SECTION 13 - MISCELLANEOUS PROVISIONS

13.1 Pretreatment Charges and Fees

The Director may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program.

These fees relate solely to the matters covered by this ordinance and are separate from all other rates or charges for sewer service, provided that the City shall collect said charges in the same manner as other sewer utility rates are collected, including but not limited to the sewer lien procedures provided under 35.67 RCW.

Fees may include:

- A. Fees for wastewater discharge permits, including the cost of processing the permit applications, public noticing, issuing and administering the permit, and reviewing monitoring reports submitted by users;
- B. Fees for modifying or transferring permits.
- C. Fees for monitoring, inspection, surveillance and enforcement procedures including the cost of collection and analyzing a user's discharge;
- D. Fees for reviewing and responding to accidental discharge procedures and construction;
- E. Fees for preparing and executing enforcement action;
- F. Fees for filing appeals;
- G. Fees for High Strength Waste and Industrial Process flow; and
- H. Other fees as the City may deem necessary to carry out the requirements contained herein.
- I. Permit Fees

A 5 year permit for a Significant Categorical User, Middle Tier Significant Categorical User, or a Significant Industrial User shall be \$2200

A 5 year permit for a Non-Significant Categorical Industrial User or Zero Discharge User shall be \$1000

A 5 year Discharge Authorization shall be \$1000.

A 1 year Discharge Authorization shall be \$500.

A Discharge Authorization shall be \$250 for a one (1) time batch discharge.

J. Permit Transfer Fee \$500

K. Permit Modification Fee \$500. Permit modification fees will only be charged in a case where changes in the user's operation require the modification, or when the user request a modification.

L. Monitoring Fees

Fees for semi annual inspections and semi annual sampling events of categorical users and Significant Industrial Users are set at \$550 per visit.

Any user establishing a pattern of non compliance, or having a history of non compliance, or suspected of being in non compliance, may require additional monitoring visits as deemed appropriate by the Director. Any additional inspections, sampling, surveillance monitoring activities, and analysis performed which detect non compliance will be billed directly to the user.

M. Enforcement Actions All expenses in preparing enforcement actions will be billed directly to the User.

N. High Strength Waste Fees. Users having effluent concentrations of BOD and/or TSS in excess of 250 mg/L, and/or FOG concentrations in excess of 50 mg/L may be billed a High Strength Waste Surcharge. Surcharge rates will be established by the Director, and based on cost of conveyance and treatment in the POTW.

O. Industrial Flow Surcharge. An Industrial flow surcharge will be billed to Significant Industrial Users and Categorical users (and may be billed to other users where deemed appropriate by the Director) and based upon the amount of industrial waste flow. The surcharge rate is \$0.19 per 1000 gallons industrial waste flow. The Director may establish new rates based upon the cost of administering the pretreatment program.

P. Cost Recovery. The City may recover any incurred expenses incurred due to noncompliance by a user, including, but not limited to; costs of opening a plugged sewer, costs of repairing a damaged sewer, costs of determining the cause of a SSO or CSO, and costs of cleaning up and mitigating a SSO or CSO.

All fees or charges will be collected by direct billing. Unless the Director has been made aware of extenuating circumstances that would prevent prompt payment, all fees are payable within 30 days of the billing. Fees past due will be considered a violation of this

ordinance. Users not paying fees within 60 days of the billing period will be subject to termination of service. The Director may change existing or adopt new fees.

13.2 Severability

Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation. The City Council of the City of Everett hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

13.3 Conflicts / Repeal

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance, are hereby repealed to the extent of the inconsistency or conflict. Specifically, Section 19 of Ordinance 1506-88 (EMC 14.08.250 - Pretreatment) is repealed and Ordinance 2034-95, as amended by Ordinance 2247-97(Chapter 14.40 EMC - Wastewater Pretreatment Regulations) is repealed. Permits issued under Ordinance 2034-95, as amended by Ordinance 2247-97, shall hereafter be subject to the provisions of this ordinance.

13.4 Non-Liability

It is expressly the purpose of this ordinance to comply with the September 13, 1985 order of the Washington State Department of Ecology requiring the City of Everett to establish an industrial pre-treatment program and to provide for and promote the health, safety and welfare of the general public. It is not the intent of this ordinance to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms or requirements of this ordinance.

It is the specific intent of this ordinance to place the obligation of complying with these regulations upon the applicant or Discharger and no provision nor any term used in this ordinance is intended to impose any duty whatsoever upon the City or any of its officers, employees or agents, except as provided under the Act or other related statutes of the United States or the State of Washington.

Nothing contained in this ordinance is intended to be nor shall be construed to create or form the basis for any tort liability on the part of the City or its officers, employees or agents, for any injury or damage resulting from the failure of an applicant or Discharger

to comply with the provisions of this ordinance, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this ordinance, or inaction on the part of the City related in any manner to the implementation or the enforcement of this ordinance by its officers, employees or agents.

13.5 *Savings*

The enactment of this ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court.

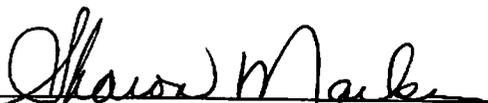
SECTION 14 - EFFECTIVE DATE

This ordinance shall be in full force and effect fifteen days after the date of this ordinance becoming valid.



Ray Stephanson, Mayor

ATTEST:



Sharon Marks, CITY CLERK

Passed: 5/07/08

Valid: 5/9/08

Published: 5/13/08

Effective: 5/24/08