



LOTT DISCHARGE AND INDUSTRIAL PRETREATMENT REGULATIONS

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LOTT DISCHARGE AND INDUSTRIAL PRETREATMENT REGULATIONS

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 LOTT Alliance and the Cities of Lacey, Olympia, and Tumwater, and for Thurston County and enables the LOTT Alliance and the Cities of Lacey, Olympia, and Tumwater, and Thurston County to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code, Section 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this Ordinance are:

- A. To protect the POTW from potential harm by establishing clear standards and requirements for pretreatment of non-domestic waste. Harm to be prevented includes: causing Interference or otherwise harming the collection system; causing Pass Through, or otherwise harming the receiving environment; or causing the POTW to respond to a discharge based on a real or perceived threat;
- B. To protect POTW staff who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- C. To promote reuse and recycling of industrial wastewater by Industrial Users;
- D. To provide high-quality end products, such as reclaimed water and biosolids from the POTW, for beneficial use;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW; and
- F. To enable LOTT to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

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

1.2 Administration

Except as otherwise provided herein, the LOTT Executive Director shall administer and implement the provisions of this Ordinance, and shall conduct other activities as set forth in Article VII of the "Interlocal Cooperation Act Agreement for Wastewater Management by the LOTT Wastewater Alliance by and among City of Lacey, City of Olympia, City of Tumwater, and Thurston County, dated November 5, 1999." Any powers granted to or duties imposed upon the Executive Director may be delegated by the Executive Director to personnel under the Executive Director's direction.

1.3 Abbreviations

The following abbreviations, when used in this Ordinance, shall have the designated meanings:

BMP	Best Management Practice
CFR	Code of Federal Regulations
CIU	Categorical Industrial User
USEPA	U.S. Environmental Protection Agency
gpd	Gallons per day
MIU	Minor Industrial User
mg/L	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIU	Significant Industrial User
U.S.C.	United States Code

1.4 Definitions

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

- A. Act or "the Act" – The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. Section 1251 et seq.
- B. Approval Authority – The Washington State Department of Ecology, Water Quality Program Manager.
- C. Authorized or Duly 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 their designee.
 4. The individuals described in Section 1.4 (C)(1-3), 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 Executive Director.
- D. Biochemical Oxygen Demand or BOD – The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/L).
- E. Best Management Practices or BMPs – Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1(A) and (B) and 40 CFR Part 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.
- F. Categorical Pretreatment Standard or Categorical Standard – Any regulation containing pollutant discharge limits promulgated by the USEPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. Section 1317), which apply to a specific category of Users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

- G. Categorical Industrial User or CIU – An Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard.
- H. [City or County] – The City or County of [City or County], Washington, a municipal corporation or county organized and existing under and by virtue of the laws of the State of Washington.
- I. Composite Sample – A composite of several samples taken throughout the period of a day when a regulated discharge is occurring. Several brands of electric samplers, some with a refrigerated sample collection area, may be used. Approvable composite samplers may either use a flow paced or time paced algorithm. For example, collecting a same size aliquot every 1,000 gallons (flow paced), or a variable sized aliquot every hour (time paced). In both cases, they must interface with a device, which senses the effluent flow volume to collect a representative sample unless the Executive Director has determined that a flow proportionate sample is not required.
- J. Daily Limit or Daily Maximum Limit – The maximum allowable discharge of a pollutant over a calendar day or equivalent representative 24-hour period. Where daily maximum limits are expressed in units of mass, and the daily discharge is calculated by multiplying the daily average concentration and total flow volumes in the same 24-hour period by a conversion factor to get the desired units. Where daily limits are expressed in terms of a concentration, the daily discharge is the composite sample value, or flow weighted average if more than one discrete sample was collected. Where flow weighting is infeasible, the daily average is the arithmetic average of all samples if analyzed separately, or the sample value if samples are composited prior to analysis.
- K. Domestic User (Residential User) – Any person who contributes, causes, or allows the contribution of wastewater into the 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 include up to 900 cubic feet of flow per month, with a concentration up to 300 mg/L of Biochemical Oxygen Demand, 300 mg/L of Total Suspended Solids, and 60 mg/L Total Ammonia.
- L. Environmental Protection Agency – The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official.
- M. Executive Director – The Executive Director of the LOTT Alliance and shall be considered LOTT Alliance personnel or the LOTT Alliance’s agent for purposes of Article VII of the “Interlocal Cooperation Act Agreement for Wastewater Management by the LOTT Wastewater Alliance by and among City of Lacey, City of Olympia, City of Tumwater, and Thurston County, dated November 5, 1999.” The term also means a duly authorized representative of the Executive Director.

- N. Existing Source – Any source of discharge subject to Categorical Standards that does not meet the definition of a “New Source” per Section 1.4(Y).
- O. Grab Sample – A sample, which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- P. Indirect Discharge or Discharge – The introduction of pollutants into the POTW from any non-domestic source regulated under 307(b), (c), or (d) of the Act.
- Q. Instantaneous Maximum Discharge Limit or Instantaneous Limit – The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of a discrete sample. Where a User is required to take a grab sample for purposes of determining compliance with Local Limits, this standard is the same as the Daily Maximum standard. For pollutants for which Users are required to take composite samples, (or for metals if no permit has been issued) the Instantaneous Limit shall be twice the Daily Limit.
- R. Interference – A discharge that causes (either by itself or in combination with other discharges) a violation of LOTT's NPDES permit or prevents the intended sewage sludge use or disposal by inhibiting or disrupting the POTW, including its collection systems, pump stations, and wastewater and sludge treatment processes. For example, a discharge from a User that causes a blockage resulting in a discharge at a point not authorized under LOTT's NPDES permit.
- S. Local Limits – Effluent limitation developed for Users by the Executive Director to specifically protect the POTW from the potential of Pass Through, Interference, vapor toxicity, explosions, sewer corrosion, and intended biosolids uses. Such limits shall be based on the POTW's site-specific flow and loading capacities, receiving water considerations, and reasonable treatment expectations for non-domestic wastewater. See Section 2.4 for a full list of Local Limits.
- T. LOTT Alliance or LOTT – A State of Washington nonprofit corporation created by Interlocal Agreement that operates as a public agency under State of Washington law, providing wastewater management and reclaimed water production services for the urbanized area of north Thurston County, Washington.
- U. Minor Industrial User or MIU – Any Industrial User that does not otherwise qualify as a Significant Industrial User of the POTW, identified by the Executive Director as having the potential to spill or discharge chemicals or slugs of wastewater to the POTW, or the potential to discharge a waste stream that, when taken into account with the waste streams of other Industrial Users, may have a significant impact on the POTW.

- V. Medical Waste – Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- W. Monthly Average – The arithmetic mean of the effluent samples collected during a calendar month or specified 30-day period. Where the Control Authority has taken a sample during the period, it must be included in the monthly average if provided in time. However, where composite samples are required, grab samples taken for process control or by the Control Authority are not to be included in a monthly average.
- X. Monthly Average Limit – The limit to be applied to the Monthly Average to determine compliance with the requirements of this Ordinance (see Section 2.4 for listing).
- Y. 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;
 - 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 (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
 3. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

- a. Begun, or caused to begin, as part of a continuous onsite construction program,
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that 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.
- Z. Non-Contact Cooling Water – Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- AA. 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 LOTT's NPDES permit, including an increase in the magnitude or duration of a violation.
- BB. Person – Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- CC. pH – A measure of the acidity or alkalinity of a solution, expressed in standard units.
- DD. Pollutant – Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, Total Suspended Solids, turbidity, color, Biochemical Oxygen Demand, Carbonaceous Oxygen Demand, toxicity, or odor).
- EE. 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.

- FF. Pretreatment Requirements – Any substantive or procedural requirement related to pretreatment imposed on a User, other than a pretreatment standard.
- GG. Pretreatment Standards or Standards – Pretreatment standards shall mean discharge prohibitions (Section 2.1), categorical pretreatment standards (Section 2.2), State pretreatment standards (Section 2.3) and local limits (Section 2.4).
- HH. Publicly Owned Treatment Works or POTW – A treatment works, as defined by Section 212 of the Act (33 U.S.C. Section 1292), which is owned by LOTT and/or the [City or County] and more fully described in the “Interlocal Cooperation Act Agreement for Wastewater Management by the LOTT Wastewater Alliance by and among City of Lacey, City of Olympia, City of Tumwater, and Thurston County, dated November 5, 1999.” This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, including sanitary sewer and storm sewer collection systems, which convey wastewater to a treatment plant.
- II. Septic Tank Waste – Sewage and typically associated solids from domestic activities pumped from a septic tank serving one or more private residences. The Executive Director may also consider wastes from other holding tanks such as boat blackwater, bilge water, cesspools, and treatment lagoons to be Septic Tank Waste so long as they are absent chemicals, which might inhibit biological activity.
- JJ. Sewage – Human excrement and gray water (from household showers, toilets, kitchens, clothes and dish washing, and related domestic activities).
- KK. Significant Industrial User or SIU – Except as provided in paragraphs (3) and (4) of this Section, a Significant Industrial User is:
 - 1. A User subject to categorical pretreatment standards; or
 - 2. A User that:
 - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - b. Contributes a process wastestream that makes up five (5) percent or

more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

- c. Is designated as such by [the City] on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) The Executive Director may determine that a User subject to categorical pretreatment standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the User never discharges more than one-hundred (100) gpd of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
- a. the User, prior to Executive Director's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
 - b. the User annually submits the certification statement required in Section 6.14(B) and 40 CFR Part 403.12(q), together with any additional information necessary to support the certification statement; and
 - c. the User never discharges any untreated concentrated wastewater.
- (4) Upon a finding that a User meeting the criteria in Section 1.4(KK)(2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Executive Director may at any time, on its own initiative or in response to a petition received from a User, and in accordance with procedures in 40 CFR Part 403.8(f) (6), determine that such User should not be considered a Significant Industrial User.
- LL. Slug Load or Slug Discharge – Any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, local limits, or Permit conditions. This includes discharges at a flow rate or concentration that could cause a violation of the prohibited discharge standards of Section 2.1 of this Ordinance.
- MM. Storm Water – Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- NN. 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.

- OO. User or Industrial User – Any Person with a source of discharge that does not qualify that person as a Domestic User who discharges an effluent into the POTW by means of pipes, conduits, pumping stations, force mains, tank trucks, constructed drainage ditches, intercepting ditches, and all constructed devices and appliances appurtenant thereto.
- PP. 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.
- QQ. Wastewater Treatment Plant or Treatment Plant – That portion of the POTW, which is designed to provide treatment of municipal sewage and industrial waste.

SECTION 2 – GENERAL SEWER USE 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 either alone or by interaction may create a fire or explosive hazard in the POTW, a public nuisance or hazard to life, or prevent entry into the sewers for their maintenance and repair or are in any way injurious to the operation of the system or operating personnel. This includes waste streams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR Part 261.21.
 2. Wastewater having a pH less than 5.0 or more than 11.0, or otherwise having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel. Discharges outside this pH range may be authorized by the Executive Director through a permit issued by the [City or County] pursuant to a finding that the system is specifically designed to accommodate a discharge of that pH.
 3. Solid or viscous substances in amounts that may cause obstruction to the flow in the sewer or other interference with the operation of the system. In no case shall solids greater than 1/4 inch (0.64 cm) in any dimension be discharged.
 4. Pollutants, including oxygen-demanding pollutants (Biochemical Oxygen Demand, 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 that will interfere with the biological activity in the system, has detrimental effects on the collection system, or prevents entry into the sewer. In no case shall wastewater be discharged, which causes the wastewater temperature at the treatment plant to exceed 104 degrees F (40 degrees C).
 6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through.

7. Pollutants, which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
8. Trucked or hauled pollutants, except at discharge points designated by the Executive Director in accordance with Section 3.4 of this Ordinance.
9. The following are prohibited unless approved by the Executive Director under extraordinary circumstances, such as lack of direct discharge alternatives due to combined sewer service or need to augment sewage flows due to septic conditions (as required under WAC 173-216-050).
 - a. Non-contact cooling water in significant volumes.
 - b. Stormwater, or other direct inflow sources.
 - c. Wastewaters significantly affecting system hydraulic loading, which do not require treatment or would not be afforded a significant degree of treatment by the system.
10. 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.
11. Wastewater, which imparts color that 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 LOTT's NPDES permit.
12. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations.
13. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Executive Director.
14. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
15. Medical wastes, except as specifically authorized by the Executive Director and the [City or County] in a wastewater discharge permit;
16. Wastewater causing, alone or in conjunction with other sources, the

17. Detergents, surface-active agents, or other substances, which may cause excessive foaming in the POTW;
18. Fats, oils, or greases of animal or vegetable origin in concentrations greater than three hundred (300) mg/L, or Total Petroleum Hydrocarbon concentrations of no more than one hundred (100) mg/L.
19. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than ten percent (10%) or any single reading over twenty percent (20%) of the Lower Explosive Limit based on an explosivity meter reading.

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

2.2 National Categorical Pretreatment Standards

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Executive Director may impose equivalent concentration or mass limits in accordance with Section 2.2(E) and 2.2(F) and 40 CFR Part 403.6(c).
- B. When categorical Pretreatment Standards are expressed in terms of a mass of pollutant, which may be discharged per unit of production, the Executive Director may either impose limits based on mass or equivalent effluent concentrations. The User must supply appropriate actual or projected long term production rates for the unit of production specified in order to facilitate this process pursuant to 40 CFR Part 403.6(c)(2)
- C. The Executive Director may allow wastewater subject to a categorical pretreatment standard to be mixed with other wastewaters prior to treatment. In such cases, the User shall identify all categorical wastestreams and provide sufficient information on each non-categorical wastestream to determine whether it should be considered dilute for each pollutant. Absent information showing that non-categorical wastestreams contain the pollutant in question at levels above that of the supply water, such wastestreams shall be considered dilute. In such situations, the Executive Director shall apply the combined wastestream formula as found at 40 CFR Part 403.6(e) to determine appropriate limits.
- D. A CIU may request an adjustment to a categorical standard to reflect the presence of pollutants in the Industrial User's intake water when its water source

is from the same body of water that the POTW discharges into.

1. Any CIU wishing to obtain credit for intake pollutants must include, in their permit application, sample data showing influent water pollutant levels, which form the basis for the credit requested in their permit application.
 2. Unless the categorical standard was written to be applied on a net basis, the information supplied by the CIU must also demonstrate that the treatment system it proposes or uses to meet the categorical standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.
 3. In response to an acceptable application, the Executive Director may adjust the categorical standards to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent pollutant concentration.
 4. The Executive Director may waive the requirement for the intake water to be drawn from the same body of water the POTW discharges to if the Executive Director determines that no environmental degradation will result.
- E. When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the Executive Director convert the limits to equivalent mass limits. The Executive Director may establish equivalent mass limits if the Industrial User meets all of the conditions set forth below.
1. To be eligible for equivalent mass limits, the Industrial User must submit information with its permit application or permit modification request, which:
 - a. Shows it has a pretreatment system, which has consistently met all applicable Pretreatment Standards and maintained compliance without using dilution;
 - b. Describes the water conserving practices and technologies it employs, or will employ, to substantially reduce water use during the term of its permit;
 - c. Includes the facility's actual average daily flow rate for all waste streams from continuous effluent flow metering;
 - d. Determines an appropriate unit of production, and provides the present and long-term average production rates for this unit of production;

- e. Shows that long term average flow and production are representative of current operating conditions;
 - f. Shows that its daily flow rates, production levels, or pollutant levels do not vary so much that equivalent mass limits would be inappropriate; and
 - g. Shows the daily and monthly average pollutant allocations currently provided based on the proposed unit of production.
2. An Industrial User subject to equivalent mass limits must:
- a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - b. Continue to record the facility's flow by continuous effluent flow monitoring;
 - c. Continue to record the facility's production rates;
 - d. Notify the Executive Director if production rates are expected to vary by more than twenty (20) percent from the baseline production rates submitted according to Section 2.2(E)(1)(d). The Executive Director may reassess and revise equivalent limits as necessary to reflect changed conditions; and
 - e. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to Section 2.2(E)(1)(b) so long as it discharges under an equivalent mass limit.
3. Equivalent mass limits:
- a. Will not exceed the product of the actual average daily flow from regulated process(es) of the User and the applicable concentration-based daily maximum and monthly average standards (and the appropriate unit conversion factor);
 - b. May be reassessed and the permit revised upon notification of a revised production rate, as necessary to reflect changed conditions at the facility; and
 - c. May be retained in subsequent permits if the User's production basis and other information submitted in 2.2(E)(1) is verified in their reapplication. The User must also be in compliance with Section 13.3 regarding the prohibition of bypass.

- F. The Executive Director may convert the mass limits of the categorical pretreatment standards of 40 CFR Parts 414 (organic chemicals), 419 (petroleum refining), and 455 (pesticide formulating, packaging, and repackaging) to concentration limits in permits for such Users. In such cases, the Executive Director will document the basis and the determination that dilution is not being substituted for treatment in the permit fact sheet.
- G. The Executive Director is obliged under Federal regulations to make the documentation of how any equivalent limits were derived (concentration to mass limits or vice versa) publicly available.
- H. Once incorporated into its permit, the User must comply with the equivalent limits in lieu of the Categorical Standards from which they were derived.
- I. The same production and flow estimates shall be used in calculating equivalent limits for the monthly (or multiple day average) and the maximum day.
- J. Users subject to permits with equivalent mass or concentration limits calculated from a production-based standard shall notify the Executive Director if production will significantly change. This notification is required within two business days after the User has a reasonable basis to know that that production will significantly change in the next calendar month. Users who fail to notify the Executive Director of such anticipated changes must meet the more stringent of the equivalent limits or the User's prior limits.

2.3 State Pretreatment Standards

Washington State pretreatment standards and requirements, located at Chapter 173-216 WAC, were developed under authority of the Water Pollution Control Act, Chapter 90.48 RCW and are hereby incorporated. The version incorporated is the version current as of the date of the latest revision or version of this Ordinance. All waste materials discharged from a commercial or industrial operation into the POTW must satisfy the provisions of Chapter 173-216 WAC. In addition to some slightly more stringent prohibitions, (merged with Section 2.1), the following provisions unique to Washington State are required by this Chapter for discharges to a POTW:

- A. Any person who constructs or modifies or proposes to construct or modify wastewater treatment facilities must first comply with the regulations for submission of plans and reports for construction of wastewater facilities, chapter 173-240 WAC. Until LOTT or the [City or County] is delegated the authority to review and approve such plans under RCW 90.48.110, sources of non-domestic discharges shall request approval for such plans through the Department of Ecology. To ensure conformance with this requirement, proof of the approval of such plans and one copy of each approved plan shall be provided to the Executive Director and the [City or County] before commencing any such construction or modification.

- B. Users shall apply to the Executive Director and the [City or County] for a permit at least 60 days prior to the intended discharge of any pollutants other than domestic wastewater or wastewater, which the Executive Director has determined is similar in character and strength to normal domestic wastewater with no potential to adversely affect the POTW.
- C. All Significant Industrial Users must apply for and obtain a permit prior to discharge.
- D. All Users shall apply all known, available, and reasonable methods to prevent and control waste discharges to the waters of the State.
- E. Discharge restrictions of Chapter 173-303 WAC (Dangerous Waste) shall apply to all Users.
- F. Claims of confidentiality shall be submitted according to WAC 173-216-080. Information, which may not be held confidential includes the: Name and address of applicant, description of proposal, the proposed receiving water, receiving water quality, and effluent data. Claims shall be reviewed based on the standards of WAC 173-216-080, Chapter 42.17 RCW, Chapter 173-03 WAC, and RCW 43.21A.160.
- G. Persons applying for a new permit or a permit renewal or modification, which allows a new or increased pollutant loading shall publish notice for each application in the format provided by the Executive Director. Such notices shall fulfill the requirements of WAC 173-216-090. These requirements include publishing:
 - 1. The name and address of the applicant and facility/activity to be permitted;
 - 2. A brief description of the activities or operations, which result in the discharge;
 - 3. Whether any tentative determination, which has been reached with respect to allowing the discharge;
 - 4. The address and phone number of the office of the Executive Director where persons can obtain additional information;
 - 5. The dates of the comment period (which shall be at least 30 days); and
 - 6. How and where to submit comments or have any other input into the permitting process, including requesting a public hearing.
- H. The Executive Director and the [City or County] may require the applicant to also

mail this notice to persons who have expressed an interest in being notified, to State agencies and local governments with a regulatory interest, and to post the notice on the premises. If the Executive Director or the [City or County] determined there is sufficient public interest the [City or County] shall hold a public meeting following the rules of WAC 173-216-100. The Executive Director or the [City or County] may assume responsibility for public notice requirements for any Person.

- I. Permit terms shall include, wherever applicable, the requirement to apply all known, available, and reasonable methods of prevention, control, and treatment.
- J. All required monitoring data shall be analyzed by a laboratory registered or accredited under the provisions of Chapter 173-50 WAC, except for flow, temperature, settleable solids, conductivity, pH, turbidity, and internal process control parameters. However, if the laboratory analyzing samples for conductivity, pH, and turbidity must otherwise be accredited, it shall be accredited for these parameters as well.

2.4 Local Limits

- A. The Executive Director may establish local limits pursuant to 40 CFR Part 403.5(c).
- B. The following pollutant limits are established to protect against Pass Through and Interference and reflect the application of reasonable treatment technology. No person discharging more than 1,000 gallons per day shall discharge wastewater in excess of the following Daily Maximum Concentration Limits unless authorized by a wastewater discharge permit issued by the [City or County]. In addition, no person discharging 1,000 gallons a day or less shall discharge wastewater in excess of following Daily Maximum Loading Limits unless authorized by a wastewater discharge permit issued by the [City or County].
- C. The below limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Executive Director may impose mass limits in addition to a concentration-based limits.

- D. Users shall be subject to “instantaneous limits” (as determined by a grab sample) of equal to twice the below “daily maximum” concentrations for any pollutant for which a composite sample is required in a permit. This provision is inapplicable to Users without permits, or without the permit requirement to collect a composite sample for the analyte in question.

ANALYTE	DAILY MAXIMUM CONCENTRATION LIMIT	DAILY MAXIMUM LOADING LIMITS (1,000 gallons per day or less)
Arsenic	0.2 mg/L	0.002 lbs. per day
Cadmium	0.2 mg/L	0.002 lbs. per day
Chromium	1.0 mg/L	0.008 lbs. per day
Chromium (hexavalent)	0.25 mg/L	0.002 lbs. per day
Copper	0.5 mg/L	0.004 lbs. per day
Cyanide (total)	0.64 mg/L	0.005 lbs. per day
Cyanide (free)	0.25 mg/L	0.002 lbs. per day
Lead	0.4 mg/L	0.004 lbs. per day
Mercury	0.05 mg/L	0.0004 lbs. per day
Nickel	0.5 mg/L	0.004 lbs. per day
Silver	0.2 mg/L	0.002 lbs. per day
Zinc	1.0 mg/L	0.008 lbs. per day
Fats, oils, & greases of animal or vegetable origin	300 mg/L	Any amount
Hydrocarbon-based oils & greases	50 mg/L	Any amount
Minimum pH	5.0 standard units	N/A
Maximum pH	10.5 standard units	N/A
Reduction in effluent ultra violet transmissivity (per cm at 254 nm wavelength)	10% reduction	N/A
Decrease in maximum effluent no observed effect concentration (NOEC) in any whole effluent toxicity test	10% decrease	N/A

- E. Users discharging Biochemical Oxygen Demand, Total Suspended Solids, or ammonia in excess of the concentration limits by more than the threshold amount listed below must apply for a permit. Such Users may be subject to surcharges as established in and under the authority of Section 14.1 up to any maximum loading limit established by permit.

ANALYTE	EXCESS STRENGTH CHARGES THRESHOLD LIMIT	PERMITTED DISCHARGE THRESHOLD AMOUNT
Biochemical Oxygen Demand (BOD ₅)	300 mg/L	2.5 lbs. per day
Total Suspended Solids	300 mg/L	2.5 lbs. per day
Total Ammonia, as ammonia (NH ₃) and ammonium ion (NH ₄ ⁺)	60 mg/L	0.5 lbs. per day

- F. The [City or County] shall use the individual permit process to establish ceiling limits for compatible pollutants and appropriate discharge limits for all other pollutants not listed under Section 2.4. This includes pollutants subject to regulation under RCRA, volatile or semi-volatile organics, halogenated or brominated compounds, poly-aromatic hydrocarbons, polymers, surfactants, pesticide active ingredients, etc.
- G. The Executive Director may establish and the [City or County] require Best Management Practices for any category of User or type of industrial process, which creates a non-domestic waste stream. Such requirements may be applied either in lieu of or in addition to the local limits of Section 2.4. BMPs may also include alternative limits, which may be applied at the end of a specific process or treatment step instead of at the combined effluent.

2.5 Right of Revision

The Executive Director and the [City or County] reserves the right to establish, by regulation, Ordinance, or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

2.6 Dilution

No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limit unless expressly authorized by an applicable pretreatment standard or requirement. The Executive Director may impose mass limitations on Users where deemed appropriate to safeguard against the use of dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

SECTION 3 – PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this Ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 2.1 of this Ordinance within the time limitations specified by USEPA, the State, the [City or County], or the Executive Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense, and satisfy State requirements for review and approval of Plans for Wastewater Facilities as described in Section 2.3. Such plans (Engineering Report, Plans and Specifications, and Operation and Maintenance Manuals) shall be submitted as required by Chapter 173-240 WAC to either the Executive Director, the [City or County], or the Department of Ecology for review, and Users shall obtain approval prior to construction. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Executive Director and the [City or County] under the provisions of this Ordinance.

3.2 Additional Pretreatment Measures

- A. The Executive Director may immediately and effectively halt or prevent any discharge of pollutants to the POTW, which reasonably appear to present an imminent endangerment to the health or welfare of persons. In such cases, the Executive Director will provide the User advance notice if possible, but shall not delay a response to imminent endangerment.
- B. The Executive Director may halt or prevent any discharge to the POTW, which presents or may present an endangerment to the environment or, which threatens to interfere with the operation of the POTW (including the collection system and pump stations). In such cases, the Executive Director shall attempt to provide not only notice to the affected User(s), but the opportunity to respond.
- C. Any User causing the Executive Director to exercise the emergency authorities provided for under Sections 3.2(A) and (B) shall be responsible for reimbursement of all related costs to the Executive Director and the [City or County].
- D. The Executive Director may require Users to reduce or curtail certain discharges to the sewer, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and take all other measures to protect the POTW and determine the User's compliance with the requirements of this Ordinance.
- E. The Executive Director and the [City or County], based on the determination that

such devices are necessary for implementation of pretreatment requirements, may require any User to install and maintain, on their property and at their expense the following devices:

1. A sample taking facility accessible to the Executive Director
 2. A suitable storage and/or flow equalization tank
 3. Grease, oil, and/or grit interceptors
 4. An approved combustible gas detection meter
- F. Users installing any of the above devices shall ensure they are of the type and capacity approved by the [City or County], meet applicable building and plumbing codes, and conform to any separate requirements established by the [City or County] and the Executive Director. Users shall locate units in areas easily accessible for cleaning and inspection by representatives of the [City or County] or Executive Director. Users shall be responsible for all periodic inspection, cleaning, and repair of such devices.

3.3 Accidental Discharge/Slug Discharge Control Plans

The Executive Director, through a permit issued by the [City or County], may require any User to develop and implement an accidental discharge/slug discharge control plan and take other actions the Executive Director believes are necessary to control discharges, which may be caused by spills or periodic non-routine activities. Accidental discharge/slug discharge control plans shall include at least the following:

- A. A description of all discharge practices, including any non-routine batch discharges such as from cleaning, replenishment, or disposal;
- B. A description of all stored chemicals, disclosing all ingredients in formulations, which could violate a discharge prohibition if discharged to the sewer;
- C. The procedures for immediately notifying the Executive Director and the [City or County] of any accidental or slug discharge, as required by Section 6.6 of this Ordinance; and
- D. The procedures that will be taken to prevent the occurrence or adverse impact from any accidental or slug discharge. Such procedures shall address the 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.

3.4 Hauled Wastewater

- A. Residential wastes meeting the definition of “Septic Tank Waste” may be introduced into the POTW at locations designated by the Executive Director, and at such times as are established by the Executive Director. The hauler of such wastes shall be responsible for ensuring such wastes comply with all discharge prohibitions (Section 2 of this Ordinance) and other applicable requirements of the Executive Director. The Executive Director may require septic tank waste haulers to obtain wastewater discharge permits issued by the City of Olympia or provide a manifest at the time of discharge identifying the customer name, address, and volume from each residence.
- B. The Executive Director shall require the hauler, and may also require the generator, of non-domestic waste to obtain a wastewater discharge permit. The Executive Director also may prohibit the disposal of any or all hauled industrial waste. The discharge of hauled industrial waste is subject to all relevant requirements of this Ordinance.
- C. Industrial waste haulers may discharge loads only at locations designated by the Executive Director and with the prior consent of the Executive Director. The Executive Director may collect samples of each hauled load to ensure compliance with applicable standards, and halt the discharge at any point in order to take additional samples or hold the load pending analysis. The Executive Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge, to characterize the waste, or to certify that the waste does not meet the definition of a “Hazardous Waste” under chapter 173-303 WAC.
- E. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include at least:
 - 1. Name and address of the industrial waste hauler;
 - 2. Hauler permit number;
 - 3. Truck and driver identification;
 - 4. Names and addresses of the sources of waste;
 - 5. Type of industry, volume, brief description, known characteristics and presumed constituents of waste; and
 - 6. Any wastes, which are “Hazardous Wastes” under RCRA.
- F. Fees for dumping hauled wastewater may be established by the Executive Director, based on the current LOTT wastewater service charge.

SECTION 4 – WASTEWATER DISCHARGE PERMITS

4.1 Industrial User Surveys

The Executive Director is obligated under Federal law to identify all Users potentially subject to the pretreatment program, and the character and volume of pollutants discharged by such Users. To satisfy this requirement, all sources of non-domestic discharges to the POTW must, upon request of the Executive Director or the [City or County], periodically complete an Industrial User Survey form. Users shall fully disclose the information requested and sign the completed form in accordance with Section 4.7. Proper completion of survey requirements is a condition of initial and continued discharge to the public sewer system. Users failing to fully comply with survey requirements within 30 days shall be subject to all enforcement measures authorized under this chapter including termination of service. The Executive Director is authorized to prepare several forms for this purpose and require completion of the particular form, which the Executive Director determines appropriate to provide the information needed to categorize each User. The Executive Director shall be authorized to categorize each User, provide written notice of a User's categorization and what it means, and revise this categorization at any time.

4.2 Wastewater Discharge Permit Requirement

- A. No User categorized by the Executive Director as a Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit developed by the Executive Director and issued by the [City or County] or, where applicable, a general permit from the Executive Director. A Significant Industrial User that has filed a timely application pursuant to Section 4.3 of this Ordinance may continue to discharge unless and until notified otherwise by the Executive Director.
- B. The Executive Director may require all other Users to obtain wastewater discharge permits, or implement Best Management Practices as necessary to carry out the purposes of this Ordinance. For example, a wastewater discharge permit may be required solely for flow equalization.
- C. Any failure to complete the required survey form, apply for and obtain a required permit, or violate the terms and conditions of a wastewater discharge permit shall be deemed violations of this Ordinance and subject the wastewater discharge permittee to the sanctions set out in Sections 10-12 of 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.

4.3 Wastewater Discharge Permitting: Existing Connections

Any User required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this Ordinance and who wishes to continue such discharges shall, within thirty (30) days after said date, apply to the Executive Director for a wastewater discharge permit in accordance with Section 4.5 of this Ordinance, and shall not cause or allow discharges to the POTW to continue after sixty (60) days of the effective date of this Ordinance except in accordance with a wastewater discharge permit issued by the [City or County].

4.4 Wastewater Discharge Permitting: New Connections

Persons wishing to discharge non-domestic wastewater must first complete either a survey form (if they do not expect a permit is needed) or a permit application. Any User identified by the Executive Director through the survey as needing a permit must file a permit application. Applications for wastewater discharge permits, in accordance with Section 4.5 of this Ordinance, must be filed at least ninety (90) days prior to the desired date of discharge, and the discharge permit obtained prior to commencing discharge.

4.5 Wastewater Discharge Permit Application Contents

- A. All Users required to obtain a wastewater discharge permit must apply using the form provided by the Executive Director. Users eligible for coverage under a General Permit may request such coverage using an industry specific form if one has been developed (see Section 4.6). Users must supply the Executive Director the following information as part of the permit application if relevant to the Users operation unless waived by the Executive Director.
1. Identifying information
 - a. The name and physical address of the facility, the names of the operator/facility manager and owner, and the name and address of the point of contact; and
 - b. A description of activities, facilities, and plant production processes on the premises.
 2. A list of any environmental control permits held by or for the facility.
 3. A description of operations and facilities including:
 - a. A brief description of the operations, average rate of production, and industrial classification (SIC or NAICS codes) of the operation(s) conducted on site; and
 - b. The number and type of employees, and proposed or actual hours of

- operation.
- c. The type, amount, rate of production, and process used for each product produced.
 - d. The type and amount of raw materials used (average and maximum rates).
 - e. The raw materials and chemicals to be routinely stored at the facility (including products in rail cars and tank trucks located on site).
 - f. The types of wastes generated on a routine and periodic basis.
 - g. The times and durations when wastes will be discharged.
 - h. A schematic process diagram showing each process step, waste stream, treatment step, internal recycle, and point of discharge to the POTW. This diagram should identify which streams are subject to categorical standards.
 - i. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
 - j. The sampling locations and provisions for monitoring discharges.
 - k. Whether plans for wastewater facilities under Chapter 173-240 WAC have been developed, and their approval status (Engineering Report, Plans and Specifications, and an Operations and Maintenance Manual).
4. Flow data: The average daily and maximum daily flow, in gallons per day, to the POTW from each waste stream. Information shall be complete enough to allow use of the combined wastestream formula per Section 2.2(C) and 40 CFR Part 403.6(e) where applicable.
5. Pollutant data:
- a. The categorical pretreatment standards applicable to each regulated process.
 - b. The results of sampling and analysis identifying the nature and concentration, (and mass where required by the standard or the Executive Director), of regulated pollutants in the discharge from each regulated process.

- c. The estimated peak instantaneous, daily maximum, and long-term average discharge concentrations (and mass) based on the sampling results.
 6. Sampling data to show samples are:
 - a. Representative of daily operations.
 - b. Taken just downstream from pretreatment facilities if such exist, or just downstream of the regulated process(es) if no pretreatment exists.
 - c. Collected as required by Section 6.11 of this Ordinance.
 - d. Analyzed according to Section 6.10 of this Ordinance.
 7. Information confirming BMPs. Where standards specify a BMP or pollution prevention alternative, the User must include the information needed by the Executive Director or the applicable standard to determine whether BMPs are (or will be) implemented.
 8. Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge must include new sampling showing (continued) absence of the pollutant in the raw wastewater and satisfying Section 6.4(B).
 9. Any request to be covered by a general permit shall satisfy Section 4.6.
 10. Any other information deemed necessary by the Executive Director to evaluate the situation and prepare a discharge permit.
- B. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision. The Executive Director shall be held harmless for delays caused by returned applications.

4.6 General Permits

- A. The [City or County] may use general permits to control discharges to the POTW from all Users. Users covered by a general permit will be those that the Executive Director finds:
 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.
 5. Are more appropriately controlled under a general permit.
 6. Are not subject to production-based standards, mass limits, or require use of the Combined Wastestream Formula to calculate limits.
- B. To be covered by the general permit, the User must file a written request for coverage. The request must identify contact information, production processes, types of wastes generated, the general permit under which coverage is requesting, and the basis for believing the general permit is applicable. The User must also identify the location for monitoring all wastes covered by the general permit. If requesting a monitoring waiver, the application must provide information showing Section 6.4(B) has been complied with. The User must also provide any other information the Executive Director has requested to properly evaluate the situation. A monitoring waiver is not effective until the Executive Director has provided written notice granting the waiver.
- C. The Executive Director will retain the following for three (3) years after the expiration of the general permit. A copy of the general permit, the fact sheet, each User's request for coverage, and the POTW's determination to extend coverage to each User.

4.7 Application Signatories and Certifications

- A. All survey forms, wastewater discharge permit applications, and User reports must be signed by an authorized representative of the User and contain the certification statement in Section 6.14(A).
- B. Users shall submit a new authorization if the designation of an authorized representative is no longer accurate. This includes when a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company. The User must submit the new authorization prior to or with any reports to be signed by the new authorized representative.
- C. A facility determined to be a Non-Significant Categorical Industrial User by the Executive Director pursuant to 1.4 (KK) (3) must annually submit the signed certification statement found at Section 6.14(B).

4.8 Wastewater Discharge Permit Decisions

After receipt of a complete wastewater discharge permit application, the Executive Director will determine whether or not to issue a wastewater discharge permit. The Executive Director may deny any application for a wastewater discharge permit or require additional safeguards, reports (including plans under Chapter 173-240 WAC), or information. For Users not meeting the criteria of Significant Industrial Users, the Executive Director may also waive or defer a permit, or allow discharges in the interim while a permit is being prepared.

SECTION 5 – WASTEWATER DISCHARGE PERMITS

5.1 Wastewater Discharge Permit Duration

The [City or County] may issue a wastewater discharge permit for a period of up to five (5) years from its effective date. Each wastewater discharge permit will indicate its expiration date.

5.2 Wastewater Discharge Permit Contents

Wastewater discharge permits will include conditions the Executive Director and the [City or County] deems reasonably necessary to carry out the goals of the pretreatment program (Section 1.1), Federal and State regulations, and the requirements of this Ordinance.

A. Wastewater discharge permits will contain:

1. The permit issuance date, expiration date, and effective date;
2. A statement that the wastewater discharge permit is nontransferable without prior notification to the [City or County] and the Executive Director in accordance with Section 5.5 of this Ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
3. Effluent limits, including Best Management Practices, based on applicable pretreatment standards and requirements to apply AKART (see Section 2.3(I));
4. The pollutants to be monitored, and specific monitoring requirements. This includes the sampling location(s), sampling frequencies, and sample types consistent with Federal, State, and local law. (see Section 2.3(J));
5. Requirements to submit certain reports (as reflected in Section 6), provide various notifications, keep records, and implement Best Management Practices;
6. The process to be used to request a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 6.4(B), or a specific waived pollutant in the case of an individual permit;
7. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law;

8. Requirements to control slug discharges, including to develop, update, and implement slug discharge control plans (find required content in Section 3.3) where the Executive Director determines such plans are important to preventing accidental, unanticipated, or non-routine discharges;
 9. Any monitoring, which has been conditionally waived by the Executive Director according to Section 6.4(B) but which automatically applies at any time the requirements of the conditional waiver are not met; and
 10. Reapplication requirements.
- B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
1. Pretreatment facilities and measures required by Section 3.1 and 3.2 of this Ordinance;
 2. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 3. Requirements to install pretreatment technology, pollution controls, or to construct appropriate containment devices to reduce, eliminate, or prevent the introduction of pollutants into the treatment works, ground, or stormwater;
 4. Requirements to develop and implement of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 5. Requirements to pay charges or fees for discharge to the POTW including high strength charges;
 6. Requirements to install and maintain inspection and sampling facilities and equipment, including flow measurement devices;
 7. Notice 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; and
 8. Other conditions as deemed appropriate by the Executive Director or the [City or County] to ensure compliance with this Ordinance, and State and Federal laws, rules, and regulations.

5.3 Permit Issuance Process

- A. Public Notice: Users shall follow the procedures for public notice found in Section 2.3(G) and 2.3(H). The Executive Director shall consider and respond to public input as appropriate prior to issuance of a permit.

- B. Permit Appeals: The Executive Director shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the User, may petition the [City or County] to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of its issuance.
 - 1. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
 - 2. 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.
 - 3. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
 - 4. If the [City or County] fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
 - 5. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Superior Court of Thurston County within ten (10) days of the final administrative action.

5.4 Wastewater Discharge Permit Modification

The [City or County], after consulting with the Executive Director, may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements including new or revised local limits;
- B. To address new or changed operations, processes, production rates, waste streams, or changes in water volume or character;
- C. To reflect conditions at the POTW requiring an authorized discharge to be

reduced or curtailed. Such requirements may be either temporary or permanent;

- D. Based on information indicating that a permitted discharge poses a threat to the Executive Director's and/or [City or County]'s POTW or staff, the receiving waters, or to violate a prohibition of this Chapter;
- E. To address violations of any terms or conditions of the wastewater discharge permit;
- F. To address misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required report;
- G. To incorporate revisions based on a variance from categorical pretreatment standards approved pursuant to 40 CFR Part 403.13;
- H. To correct typographical or other errors in the wastewater discharge permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator as required under Section 5.5.

5.5 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be transferred to a new owner or operator only if the permitted User gives at least thirty (30) days advance notice to the Executive Director and the [City or County], and the Executive Director and the [City or County] approves the wastewater discharge permit transfer. Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer. The notice to the Executive Director and the [City or County] must include a written certification by the new owner or operator, which:

- A. States that the new owner and/or operator have 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.

5.6 Wastewater Discharge Permit Revocation

The [City or County] may revoke a wastewater discharge permit for good cause, including, but not limited to, when a User has:

- A. Failed to notify the Executive Director of significant changes to the wastewater prior to the changed discharge;

- B. Failed to provide prior notification to the Executive Director of changed conditions pursuant to Section 6.5 of this Ordinance;
- C. Misrepresented or failed to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsified self-monitoring reports or tampered with monitoring equipment;
- E. Refused to allow the Executive Director timely access to the facility premises and records;
- F. Failed to meet effluent limitations or permit conditions;
- G. Failed to pay applicable fines or sewer charges;
- H. Failed to meet compliance schedule deadline dates;
- I. Failed to complete a wastewater survey or wastewater discharge permit application;
- J. Failed to provide advance notice of the transfer of business ownership;
- K. Violated any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Ordinance;
- L. Ceased operations; or
- M. Transferred business ownership.

Wastewater discharge permits issued to a User are void upon the issuance of a new wastewater discharge permit to that User.

5.7 Wastewater Discharge Permit Reissuance

A User with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.5 of this Ordinance, a minimum of ninety (90) days prior to the expiration of the User's existing wastewater discharge permit.

SECTION 6 – REPORTING REQUIREMENTS

6.1 Baseline Monitoring Reports

- A. When “categorical standards” for an industry category are published, Users that perform that process and either currently discharge or are scheduled to discharge wastewater from the process to the POTW, must submit a “baseline monitoring report” to the Executive Director. This report must contain the information listed in paragraph C, below. The report is due within one hundred eighty (180) days after the effective date of a categorical pretreatment standard, unless the final administrative decision on a category determination comes later.
- B. Users that wish to begin discharging wastewater to the POTW from operations subject to categorical standards after USEPA has published the standards (called New Sources), shall also submit a “Baseline Monitoring Report” to the Executive Director containing the information listed in paragraph 6.1 C. However, for New Sources, the report must be provided at least ninety (90) days before desiring to discharge. New Sources shall describe the method of pretreatment they intend to use to meet applicable categorical standards. Because monitoring data will not be available for proposed facilities, New Sources instead must provide estimates of the anticipated flow rates and quantity of pollutants to be discharged.
- C. The Baseline Monitoring Report shall include the following information:
1. All information required in Section 4.5.A(1-7).
 2. Additional Conditions for Existing Sources Measuring pollutants:
 - a. Users shall take a minimum of one representative sample to compile the data for the Baseline Monitoring Report.
 - b. Users shall take samples immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If the User mixes other wastewaters with the regulated wastewater prior to pretreatment, the User must provide the flows and concentrations necessary to apply the combined wastestream formula of Section 2.2(C) and 40 CFR Part 403.6(e). Where the User wants an alternate concentration or mass limit, and it is allowed by Federal rules at § 403.6(e), the User shall propose the adjusted limit and provide supporting data to the Control Authority.
 - c. Sampling and analysis shall be performed in accordance with Section 6.11 (Sample Collection), and Section 6.10 (Analytical Requirements).
 - d. The Executive Director may allow the report to use only historical data

if the data is good enough to allow the evaluation of whether (and which) industrial pretreatment measures are needed;

- e. The baseline report shall indicate the time, date, and place of sampling, methods of analysis. The User shall certify that the sampling and analysis presented is representative of normal work cycles and expected pollutant discharges to the POTW.
3. Compliance Certification – A statement, reviewed by the User's authorized representative as defined in Section 1.4(C) and certified by a qualified professional, such as a Professional Engineer indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment steps are required to meet the pretreatment standards and requirements.
4. Compliance Schedule – While New Sources must install the treatment required to meet the Pretreatment standards prior to operation, Existing Sources may be granted a compliance schedule where they must provide additional pretreatment and/or O&M to meet the pretreatment standards. In such cases, the User shall propose the shortest schedule by which they can provide the additional pretreatment and/or O&M. The completion date, which the User proposes in this schedule may not be later than the compliance date established for the applicable pretreatment standard. Any compliance schedule authorized pursuant to this Section must also meet the requirements set out in Section 6.2 of this Ordinance.
5. Signature and Report Certification – All baseline monitoring reports must be certified in accordance with Section 6.14(A) of this Ordinance and signed by an authorized representative as defined by Section 1.4(C).

6.2 Compliance Schedule Progress Reports

The following conditions shall apply to compliance schedules proposed by Existing Sources according to Section 6.1(C)(4) of this Ordinance and incorporated into permits:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred to above shall exceed nine (9) months;

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

6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Both Existing Sources and New Sources must submit a report on whether compliance has been initially achieved. For Existing Sources, the report is due ninety (90) days after the date applicable categorical standards give as the final compliance date. For a new source, the report is due 90 days after starting to discharge to the POTW.

In both cases, the report must contain the information described in Sections 4.5(A)(3-6). For existing sources, it must also contain the compliance certification of 6.1(C)(3) and, if needed, the compliance schedule described in Section 6.1(C)(4). Users subject to equivalent mass or concentration limits, as allowed by Section 2.2, must include a reasonable measure of their long-term production rate. Other Users subject to standards based on a unit of production (or other measure of operation) must include their actual production during the sampling period. All compliance reports must be signed and certified in accordance with Section 6.14(A) of this Ordinance.

6.4 Periodic Compliance Reports

- A. The Executive Director may specify the necessary minimum sampling and reporting frequencies and include applicable requirements in permits issued by the [City or County]. Significant Industrial Users (SIUs), except those recognized as “middle tier” Users under Section 6.4(C), must:
 - 1. Report at least twice a year, in June and December unless otherwise specified;
 - 2. Report the flows and concentrations of regulated pollutants in all discharges subject to pretreatment standards;
 - 3. Report average and maximum daily flows for the reporting period and identify where flow estimates are used; and
 - 4. Include the documentation needed to show compliance with applicable BMPs, pollution prevention alternatives, maintenance, treatment, or record keeping requirements.
- B. The Executive Director may authorize a CIU to forego sampling of a pollutant

regulated by a categorical Standard when it is not present in raw wastewater provided:

1. The CIU submits a request for the waiver with their permit application or reapplication (see Section 4.5(A)(8));
2. The CIU analyzes a sample (or samples) representative of all wastewater from all processes before any treatment and includes all results with the request;
3. The CIU demonstrates through source water and untreated process water sample results that the pollutant never exceeds intake water levels. (Pollutants simply reduced by treatment to background levels are ineligible for the waiver.);
4. The CIU shows, where non-detectable sample results are returned in (2) or (3), that they used the method from 40 CFR Part 136 with the lowest detection level;
5. The duly authorized representative of the CIU signs the request using the certification statement of Section 6.14(A);
6. The CIU includes, in routine monitoring reports, the statement in Section 6.14(C), certifying that there has been no increase in the pollutant in its waste stream due to activities of the Industrial User; and
7. The CIU reports and immediately resumes the monitoring, which would otherwise have been required upon discovering that a waived pollutant is present or expected to be present based on changes to the User's operations

The Executive Director will document the reasons supporting the waiver in the Permit Fact Sheet, and keep any information submitted by the User and the fact sheet for three (3) years after the waiver expires. Monitoring waivers are valid after being incorporated in a User's permit. The waiver is in effect while the Permit is effective, up to five (5) years. The Executive Director may cancel a monitoring waiver at any time for cause.

- C. The Executive Director may reduce the minimum periodic compliance reporting frequency for CIU's from twice a year (Section 6.4(A)) to once a year where the CIU:
1. Discharges wastewater subject to categorical standards at a rate less than one gallon per every ten thousand (10,000) gallons of POTW design maximum monthly average flow capacity (per LOTT's NPDES permit). The CIU must measure their discharge using a continuous (or totalizing)

effluent flow meter. If the CIU discharges in batches, the Executive Director will determine eligibility by dividing total flows in all batches, which contain any proportion subject to categorical regulation by the number of days the CIU is in full operation in a given calendar month.

2. Discharges less than five thousand (5,000) gallons of wastewater subject to categorical standards on the maximum day (including batch dischargers).
 3. Discharges categorical wastewater with less than one pound of Biochemical Oxygen Demand per each ten thousand (10,000) pounds of POTW loading capacity. POTW loading capacity is the design maximum monthly average Biochemical Oxygen Demand loading capacity per LOTT's NPDES permit (or if not included in the permit, in approved Executive Director plans).
 4. Discharges less than 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by both an applicable Categorical Standard and a local limit in Section 2.4 of this Ordinance.
 5. Has not been in Significant Noncompliance as defined in this Ordinance during the prior two (2) years.
 6. Has daily flow rates, production levels, or pollutant levels that are consistent enough the Executive Director believes will allow representative data at the decreasing reporting interval.
- D. Users must sign and certify all periodic compliance reports in accordance with Section 6.14(A) of this Ordinance.
- E. Users must take wastewater samples, which are representative of their range of discharge conditions and of any discharge not disclosed in their permit application. Users must properly operate, clean, and maintain sampling and flow metering facilities and devices and ensure they function properly. The Executive Director may not allow User claims that sampling results are unrepresentative due to a Users failure to meet this requirement.
- F. Users subject to the reporting requirements in this Section must report any additional monitoring, which might determine compliance with permit requirements. This includes any additional monitoring of regulated pollutant at their respective effluent monitoring locations using procedures prescribed in Section 6.11 of this Ordinance. In such cases, the results of this monitoring shall be included in periodic monitoring reports.
- G. Users that send electronic (digital) documents to the Executive Director to satisfy the requirements of this Section must meet all State and Federal electronic

signature requirements: electronic data shall be in the format required by the Executive Director. The Executive Director may also require reporting in both digital and traditional format.

6.5 Reports of Changed Conditions

Each User must notify the Executive Director of any significant changes to the User's operations or system, which might alter the nature, quality, or volume of its wastewater. This notification must be made at least thirty (30) days before the desired change and be sent to both the Control Authority (Executive Director) and the receiving POTW if they are different. In such cases:

- A. The Executive Director may require the User to submit whatever information is needed to evaluate the changed condition. The Executive Director may also require a new or revised wastewater discharge permit application under Section 4.5 of this Ordinance.
- B. The [City or County] may issue, reissue, or modify a wastewater discharge permit applying the procedures of Chapter 5 of this Ordinance in response to a User's notice under this Section.

6.6 Reports of Potential Problems

- A. Any User, which has any unusual discharge that could cause problems to the POTW must immediately notify the Executive Director by telephone of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User to control and curtail the discharge. Such discharges may include spills, slug loads, accidental discharges, or other discharges of a non-routine, episodic nature. Problems to the POTW, which require reporting under this Section include violating pretreatment prohibitions, treatment standards, or other requirements of Chapter 2 of this Ordinance such as vapor toxicity and explosivity limits.
- B. Within five (5) days following such discharge, the User shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability, which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability, which may be imposed pursuant to this Ordinance.
- C. Regardless of whether the User has been required to submit a Slug Discharge Control Plan (per Section 3.3), all Users shall post notice in a prominent location advising employees who to call at the POTW to inform the Executive Director of

a potential problem discharge (Section 6.6(A)). Users shall ensure that all employees who may cause or witness such a discharge are advised of the emergency notification procedures.

- D. All Users must immediately notify the Executive Director of any changes at their facility, which might increase their potential for a slug discharge. This includes increasing the volume of materials stored or located on site, which, if discharged to the POTW, would cause problems. Users required to prepare a Slug Discharge Control Plan under Section 3.3 shall also modify their plans to include the new conditions prior to, or immediately after making such changes.

6.7 Reports from Unpermitted Users

All Users not required to obtain a wastewater discharge permit or general permit shall provide appropriate reports to the Executive Director as the Executive Director may require. This includes periodically completing and signing Industrial User Surveys.

6.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the Executive Director within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Executive Director within thirty (30) days after becoming aware of the violation. The Executive Director may waive the repeat sampling requirement where the Executive Director has sampled the effluent for the pollutant in question prior to the User obtaining sampling results.

6.9 Notification of Discharge of Hazardous Waste

- A. Any User who discharges any substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261, or Chapter 173-303 WAC must also comply with the following requirements:
 - 1. Notify the Executive Director, the USEPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of the discharge. Maintain a copy of this notification and include it in all subsequent permit application or re-applications under this Chapter.
 - 2. Include the following information in the notification:
 - a. The name of the hazardous waste as found in 40 CFR Part 261;
 - b. The USEPA hazardous waste number; and
 - c. The type of discharge (continuous, batch, or other).

3. If the discharge totals more than two hundred and twenty (220) pound in any month, also provide:
 - a. The hazardous constituents contained in the wastes,
 - b. An estimate of the mass and concentration of hazardous constituents in the wastestream discharged during that calendar month, and
 - c. An estimate of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months.
 4. This notice shall be repeated for new or increased discharges of substances subject to this reporting requirement.
 5. All notifications must take place prior to discharging a substance for which these reporting requirements apply. If this is not possible, the notice must be provide as soon after discharge as practical and describe why prior notice was not possible.
 6. Users must provide notifications under this paragraph only once to USEPA and the State for each hazardous waste discharged. However, all of the information of these notices shall be repeated in each new permit application submitted under this Chapter.
 7. This requirement does not relieve the User from requirements to provide other notifications, such as of changed conditions under Section 6.5 of this Ordinance, or applicable permit conditions, permit application requirements, and prohibitions.
 8. The notification requirements in this Section do not apply to pollutants for which routine monitoring and reporting is required in a permit under this Ordinance.
- B. Users must report all discharges of more than thirty-three (33) pounds per month of substances, which, if otherwise disposed of, would be hazardous wastes. Users must also report any discharge of acutely hazardous wastes as specified in 40 CFR Parts 261.30(d) and 261.33(e). Subsequent months during which the User discharges more of a hazardous waste for which notice has already been provided do not require another notification to USEPA or the State, but must be reported to the Executive Director.
- C. If new regulations under RCRA describe additional hazardous characteristics or substances as a hazardous waste, the User must provide notifications under paragraphs A, if required by paragraph B within ninety (90) days of the effective date of such regulations.

- D. For any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical and shall describe that program and reductions obtained through its implementation.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Ordinance, a permit issued thereunder, or any applicable Federal or State law.

6.10 Analytical Requirements

All pollutant sampling and analyses required under this Ordinance shall conform to the most current version of 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 a pollutant, or the Executive Director determines that the Part 136 sampling and analytical techniques are inconsistent with the goal of the sampling, the Executive Director may specify an analytical method. If neither case applies, Users shall use validated analytical methods or applicable sampling and analytical procedures approved by USEPA.

6.11 Sample Collection

Users must ensure all samples they collect to satisfy sampling requirements under this Ordinance are representative of the range of conditions occurring during the reporting period. Users must also ensure that, when specified, samples are collected during the specific period.

- A. Users must use properly cleaned sample containers appropriate for the sample analysis and sample collection and preservation protocols specified in 40 CFR Part 136 and appropriate USEPA guidance.
- B. Users must obtain samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds using grab collection techniques.
- C. For certain pollutants, Users may composite multiple grab samples taken over a 24-hour period. Users may composite grab samples for cyanide, total phenols, and sulfides either in the laboratory or in the field, and may composite grab samples for volatile organics, and oil & grease in the laboratory prior to analysis.
- D. For all other pollutants, Users must employ 24-hour flow-proportional composite samplers unless the Executive Director authorizes or requires an alternative sample collection method.
- E. The Executive Director may authorize composite samples for parameters unaffected by the compositing procedures, as appropriate.

- F. The Executive Director may require grab samples either in lieu of or in addition to composite sampling to show compliance with instantaneous discharge limits.
- G. In all cases, Users must take care to ensure the samples are representative of their wastewater discharges.
- H. Users sampling to complete baseline monitoring and 90-day compliance reports required by Section 6.1 and 6.3, must satisfy some specific requirements. These reports require at least four (4) grab samples for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. Users may composite samples prior to analysis if allowed in 6.11.C. Where historical sampling data exists the Executive Director may also authorize fewer samples.
- I. For periodic monitoring reports (Section 6.4), the Executive Director may specify the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

6.12 Date of Receipt of Reports

The Executive Director will credit written reports as having been submitted on the date of the post mark when mailed through the United States Postal Service. Reports delivered in any other manner will be credited as having been submitted on the business day received.

6.13 Record Keeping

Users subject to reporting requirements of this Ordinance shall retain the below records for all monitoring required by this Ordinance and for any additional monitoring, which could be used to satisfy minimum monitoring requirements. Users must make these records available for inspection and copying at the location of the discharge. Users must similarly maintain documentation associated with any Best Management Practices required under authority of Section 2.4(C). Monitoring records shall include at least:

- A. The time, date, and place of sampling;
- B. The sampling and preservation methods used;
- C. The person taking the sample, and persons with control of the sample prior to analysis;
- D. The person performing the analyses and the date the analysis was completed;
- E. The analytical techniques or methods used; and
- F. The results of analysis.

Users are encouraged to retain quality control and quality assurance information provided by the laboratory and submit this information in routine reporting. This information also has value in the event that the sample data is called into question. For analytes for which Washington State requires use of a certified/accredited laboratory, Users must maintain the scope of accreditation for laboratories performing any analyses for them.

Users shall maintain the above records for at least three (3) years, until any litigation concerning the User or the [City or County], or the Executive Director is complete, or for longer periods when the User has been specifically notified of a longer retention period by the Executive Director.

6.14 Certification Statements

A. The following certification statement must be signed by an authorized representative as defined by Section 1.4(C) and included when submitting:

1. A permit (re-)application in accordance with Section 4.7;
2. A Baseline Monitoring Report under Section 6.1(C)(5);
3. A report on compliance with the categorical pretreatment standard deadlines under Section 6.3;
4. A periodic compliance report required by Section 6.4(A-D); or
5. An initial request to forego sampling of a pollutant based on Section 6.4(B)(5).

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

B. Annual Certification for Non-Significant Categorical Industrial Users

A facility determined to be a Non-Significant Categorical Industrial User by the Executive Director pursuant to 1.4 (KK)(3) and 4.7 C must complete the below statement and submit it to the Executive Director annually. The statement must be signed by an authorized representative (Section 1.4(C)):

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

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 1.4 FF (3) [40 CFR 403.3(v)(2)]; (b) the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based upon the following information.

_____“

C. Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 6.4(B) must also include the following certification statement in each report. This statement certifies that there has been no increase in the pollutant in its wastestream due to activities of the User:

“Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 6.4.A.”

SECTION 7 – COMPLIANCE MONITORING

7.1 Right of Entry: Inspection and Sampling

The Executive Director shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this Ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Executive 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 Executive Director will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Executive 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. Users shall provide full access to the Executive Director to use any monitoring facilities and utilities available or required in accordance with Section 3.1 and Section 3.2(E) and (F) to confirm that the standards or treatment required for discharge to the sewer are being met.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Executive Director and shall not be replaced. The costs of clearing such access shall be born by the User.
- E. Any unreasonable delay in allowing the Executive Director full access to the User's premises and wastewater operations shall be a violation of this Ordinance.

7.2 Search Warrants

The [City or County], on behalf of the Executive Director, may seek issuance of a search warrant from the Superior Court of Thurston County. Such warrants may be secured when:

- A. The Executive Director has been refused access or is unable to locate a representative who can authorize access to a building, structure, or property, or any part thereof, and has probable cause that a violation of this Ordinance is occurring on the premises;
- B. The Executive Director has been denied access to inspect and/or sample as part

of a routine inspection and sampling program of the Executive Director designed to verify compliance with this Ordinance or any permit or order issued hereunder;
or

- C. The Executive Director has cause to believe there is imminent endangerment of the overall public health, safety, and welfare of the community by an activity on the premises.

SECTION 8 – CONFIDENTIAL INFORMATION

Generally, information submitted to demonstrate compliance with pretreatment standards and requirements will be freely available to the public. To the extent such is consistent with State and Federal laws, Users may have certain information treated as confidential if the following process is followed.

- A. When a User submits information to the Executive Director or [City or County], or provides information to inspectors, Users may request that specific information be maintained as confidential. Users must promptly identify the specific information in writing, and describe why the release would divulge information, processes, or methods of production entitled to protection as trade secrets or confidential business information under applicable State or Federal laws.
- B. Dependent on the agency receiving the request, the Executive Director or the [City or County] shall review and approve or deny such requests. When approved, the information shall not be publicized by the [City or County] unless required by State or Federal law.
- C. All other information submitted to the Executive Director or the [City or County] and obtained from the Executive Director's or the [City or County]'s oversight shall be available to the public subject to the Executive Director or the [City or County] records review policy.
- D. Information held as confidential may not be withheld from governmental agencies for uses related to the NPDES program or pretreatment program, or in enforcement proceedings involving the person furnishing the report.
- E. Federal rules prevent wastewater constituents and characteristics and other effluent data, as defined by 40 CFR Part 2.302 from being recognized as confidential information.

SECTION 9 – PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

- A. **PUBLISHING:** The Executive Director must annually publish a list of the Users, which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable pretreatment standards and requirements. The list will be published in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW.
- B. **DEFINITION:** The term Significant Noncompliance means:
1. Any violation of a pretreatment standard or requirement including numerical limits, narrative standards, and prohibitions, that the Executive Director determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public.
 2. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Executive Director's or [City or County]'s exercise of its emergency authority to halt or prevent such a discharge.
 3. Any violation(s), including of Best Management Practices, which the Executive Director determines will adversely affect the operation or implementation of the local pretreatment program.
 4. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter taken during a rolling six (6) month period exceed, by any magnitude, a numeric pretreatment standard or requirement, including instantaneous limits of Section 2.
 5. 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 rolling six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, (including instantaneous limits, as defined by Section 2), multiplied by the applicable criteria. Applicable criteria are 1.4 for Biochemical Oxygen Demand, Total Suspended Solids, fats, oils and greases, and 1.2 for all other pollutants except pH.
 6. 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.
 7. Failure to provide any required report within forty-five (45) calendar days

after the due date. This includes initial and periodic monitoring reports, and reports on initial compliance and on meeting compliance schedules.

8. Failure to accurately report noncompliance.

C. **APPLICABILITY:** The criteria in Sections 9(B)(1-3) are applicable to all Users, whereas the criteria in Sections 9(B)(4-8) are only applicable to SIUs.

SECTION 10 – ADMINISTRATIVE ENFORCEMENT REMEDIES

In administering the LOTT Pretreatment Program, the Executive Director is obliged to follow the LOTT Pretreatment Program's approved procedures. In response to noncompliance with any requirement of this Ordinance, the Executive Director shall apply the LOTT Enforcement Response Plan, which is a part of these approved procedures. This plan ensures that the application of remedies provided for in Sections 10, 11, and 12 of this Ordinance is appropriate to the violation, and consistent with the treatment of other Users. Any person may review or obtain a copy (for a nominal charge) of the Enforcement Response Plan by contacting the Executive Director.

10.1 Notification of Violation

The [City or County] may serve a written Notice of Violation on any User that the [City or County] and/or the Executive Director finds has violated any provision of this Ordinance, including terms or requirements of a permit, order, or a pretreatment standard or requirement. In all cases in this Ordinance, a continuation of a violation of a provision of this Ordinance is a "violation." Users shall, in response to a Notice of Violation, provide the [City or County] a written explanation of the violation, its cause, and a corrective action plan within thirty (30) days of the receiving this notice. Users submitting plans to correct noncompliance must include the specific actions they will take to correct ongoing and prevent future violations at the soonest practicable date. The [City or County]'s acceptance of a plan does not relieve a User of liability for any violations. The [City or County] may also take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.2 Consent Orders

The [City or County] may enter into a Consent Order or other voluntary agreement to memorialize agreements with Users violating any requirement of this Ordinance after consultation with the Executive Director. Such agreements must include the specific action(s) required and date(s) they are to be completed to correct the noncompliance. Such documents must be constructed in a judicially enforceable manner, and have the same force and effect as administrative orders issued pursuant to Sections 10.4 and 10.5 of this Ordinance.

10.3 Show Cause Hearing

After consultation with the Executive Director, the [City or County] may propose actions in response to a violation of any provision of this Ordinance, including a provision of a permit, order, or a pretreatment standard or requirement. The [City or County] will notify the User of the violation, the proposed action, the rationale, and the Users rights and obligations to provide evidence why the proposed enforcement action should not be taken, and to provide its support for any alternative it proposes at this meeting. A User shall have the right to a show cause hearing to contest the [City or County]'s action provided for by this Ordinance or determination that the User has violated a compliance

schedule order.

Any hearing pursuant to this Section must be requested by the User in writing within fifteen (15) business days after the User receives notice of the [City or County]'s proposed action. The User's written request for hearing shall be filed with the Executive Director.

The hearing authorized by this Section shall be held before the LOTT Technical Sub-Committee (TSC). Formal rules of evidence shall not apply, but the User and the [City or County] shall have the right to present witnesses and other evidence. The TSC shall issue a written decision within fourteen (14) business days of the conclusion of the hearing.

Any User shall have the right to make an electronic or stenographic record of the proceedings. Such record shall be made at the User's expense.

The TSC may by resolution or ordinance adopt additional rules for the conduct of hearings pursuant to this Section.

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

10.4 Compliance Orders

The [City or County], after consulting with the Executive Director, may issue a compliance order to any User, which has violated any provision of this Ordinance including a requirement of a permit, order, or a pretreatment standard or requirement. The compliance order may direct that the User come into compliance within a specified time, install and properly operate adequate treatment facilities or devices, or take such measures as the [City or County] or Executive Director finds are reasonably necessary. These measures may include additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, or relieve a User of liability for any violation, including a continuing violation. If the User does not come into compliance within the time provided, 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.

10.5 Cease and Desist Orders

When [City or County] and/or Executive 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 [City or County] may, after consultation with the Executive Director, 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.

10.6 Administrative Fines

- A. When the [City or County] finds that a User has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the [City or County] may, after consultation with the Executive Director, fine such User in an amount not to exceed ten thousand dollars (\$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.
- B. The [City or County] may add the costs of any emergency response, additional monitoring, investigation, and administrative costs related to the noncompliance and the [City or County]'s response to the situation, to the amount of the fine.
- C. The [City or County] will consider the economic benefit gained by a User as a result of the noncompliance in cases where there appears to have been a monetary benefit from not complying. In such cases, the [City or County] shall ensure that fines, to the maximum amounts allowable, exceed the benefit to the User from the noncompliance.
- D. Unpaid charges, fines, and penalties shall, at thirty (30) calendar days past the due date, be assessed an additional penalty of one percent (1%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month, or at the rate allowed by law if different from the foregoing. After thirty (30) days, the [City or County] shall be authorized to file a lien against the User's property for unpaid charges, fines, and penalties.
- E. Users desiring to dispute such fines must file a written request for the [City or County] to reconsider the fine along with full payment of the fine amount within fifteen (15) working days of being notified of the fine. Where a request has merit as determined by the [City or County] and Executive Director, the [City or County] may convene a hearing on the matter pursuant to Section 10.3 of this Ordinance. In the event the User's appeal is successful, the [City or County] shall rebate the difference between the initial and final penalty amounts to the User.
- F. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.7 Emergency Suspensions

The [City or County] may immediately suspend a User's discharge (or threatened discharge) when it reasonably appears to present a substantial danger to the health or welfare of persons. In such cases, the [City or County] will first provide informal notice to the User. The [City or County] may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, a danger to the environment.

- A. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. If a User fails to immediately comply voluntarily with the suspension order, the [City or County] may take such steps as deemed necessary to protect the public and its interest in the sewer system. Remedies available to the [City or County] include immediately severing the sewer connection, at the User's expense, turning off pump stations downstream of the User, and partnering with law enforcement. The [City or County] may not allow the User to recommence its discharge until the User has demonstrated to the satisfaction of the [City or County] that the situation warranting the suspension has been properly addressed and any proposed Termination proceeding has been resolved.

- 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. Users shall submit this report to the [City or County] prior to the date of any show cause or termination hearing under Sections 10.3 and 10.8 of this Ordinance.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

10.8 Termination of Discharge

Any User who violates the following conditions is subject to having the privilege of discharging to the public sewer system withdrawn:

- A. Discharge of non-domestic wastewater without a permit, including
 - 1. Where the appropriate permit has not been requested;
 - 2. Where the appropriate permit has not yet been issued; or
 - 3. Where the permit has been denied or revoked based on the provisions of Section 5.6 (Permit Revocation) of this Ordinance.

- B. Violation of permit terms and conditions including:
 - 1. Exceeding any permit limit;
 - 2. Failing to meet other pretreatment standards or requirements;
 - 3. Violating any prohibition; or
 - 4. Failing to properly monitor and report discharges or changed conditions.
- C. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling (whether subject to a permit or not).
- D. Violation of the pretreatment standards and requirements in Section 2 of this Ordinance, including failure to satisfy Industrial User Survey requirements.

When the [City or County] determines this remedy is necessary and appropriate to fulfill the intentions of this Ordinance, and after consulting with the Executive Director, such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of this Ordinance why the proposed action should not be taken. Exercise of this option by the [City or County] shall not be a bar to, or a prerequisite for, taking any other action against the User.

SECTION 11 – JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief

The [City or County] may seek injunctive relief when a User has violated, or continues to violate a provision of this Ordinance, including a pretreatment standard or requirement, or a permit or order issued hereunder. In such cases, the [City or County] may petition the Superior Court of Thurston County through the [City or County]'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 or County] 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.

11.2 Civil Penalties

- A. A User, which has violated, or continues to violate a provision of this Ordinance, including a pretreatment standard or requirement, or a permit or order issued hereunder shall be liable to the [City or County] for a maximum civil penalty of ten thousand dollars (\$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 [City or County] may recover reasonable attorneys' fees, court costs, and other expenses associated with any emergency response, enforcement activities, additional monitoring and oversight, and costs of any actual damages to the [City or County] or LOTT.
- C. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, any other action the [City or County] may take to resolve noncompliance by a User.

11.3 Criminal Prosecution

- A. A User who willfully or negligently 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 misdemeanor, punishable by a fine of not more than ten thousand dollars (\$10,000) per violation, per day, or imprisonment for not more than one (1) year, or both.
- B. A User who negligently introduces any substance into the POTW, which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor. A User who willfully introduces any substance into the POTW, which causes personal injury or property damage shall, upon conviction, be guilty

of a gross misdemeanor. A User who is convicted will also be subject to prosecution for violation of any other laws, which may be applicable.

- 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 punished by a fine of not more than ten thousand dollars (\$10,000) per violation, per day, or imprisonment for not more than one (1) year, or both.
- D. In the event of a second conviction, a User shall be punished by a fine of not more than ten thousand dollars (\$10,000) per violation, per day, or imprisonment for not more than one (1) year, or both.

11.4 Remedies Nonexclusive

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

SECTION 12 – SUPPLEMENTAL ENFORCEMENT ACTION

12.1 Penalties for Late Reports

The [City or County] may assess a penalty of up to fifty dollars (\$50) to any User for each day that a report required by this Ordinance, a permit, or order issued hereunder is late. Penalties accrue beginning the fifth (5th) day after the report is due. The [City or County]'s actions to collect late reporting penalties shall not limit the [City or County]'s authority to initiate any other enforcement action.

12.2 Performance Bonds

The [City or County] may require a satisfactory bond, payable to the [City or County], in a sum not to exceed a value determined by the [City or County] and Executive Director as necessary to assure the User will achieve consistent compliance with this Ordinance. The Executive Director may require this bond as an enforcement response or as a prerequisite to issue or reissue a wastewater discharge permit. Any User who has failed to comply with any provision of this Ordinance, a previous permit or order issued hereunder, or any other pretreatment standard or requirement may be subject to this requirement. This bond may also be required of any category of User, which has led to public burdens in the past regardless of the compliance history of the particular User. The [City or County] may use this bond to pay any fees, costs, or penalties assessed to the User whenever the Users account is in arrears for over thirty (30) days. This includes the costs of cleanup of the site if the User goes out of business, sells the business to a person that does not first assume the bond, or goes bankrupt. Users may petition the [City or County] to convert their performance bond to a requirement to provide Liability Insurance, or to forego any such safeguard based on their performance. User may petition no more frequently than once in any twelve (12) month period.

12.3 Liability Insurance

The [City or County] may require any User to provide liability insurance at its discretion. In such cases, Users must provide proof that the insurance is sufficient to cover any liabilities incurred under this Ordinance, including the cost of damages to the POTW and the environment caused by the User. The [City or County] may require Users to provide the proof of such insurance prior to issuing or reissuing a wastewater discharge permit.

12.4 Payment of Outstanding Fees and Penalties

The [City or County] may decline to issue or reissue a wastewater discharge permit to any User who has failed to pay any outstanding fees, fines, or penalties incurred as a result of any provision of this Ordinance, a previous permit or order issued hereunder.

12.5 Water Supply Severance

The [City or County] may order water service to a User severed whenever a User has violated or continues to violate any provision of this Ordinance, a permit, or order issued hereunder, or any other pretreatment standard or requirement. Users wishing to restore their service must first demonstrate their ability to comply with this Ordinance and pay the related costs of this action.

12.6 Public Nuisances

A violation of any provision of this Ordinance or a permit or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the [City or County]. Any person creating a public nuisance shall be subject to the provisions of [City or County] [Municipal Code or County Code] governing such nuisances, including reimbursing the [City or County] for any costs incurred in removing, abating, or remedying said nuisance.

12.7 Informant Rewards

The [City or County] or LOTT may pay up to one thousand dollars (\$1,000) for information leading to the discovery of noncompliance by a User. In the event that the information provided results in a civil penalty or an administrative fine levied against the User, the [City or County] or LOTT may disperse up to ten percent (10%) of the collected fine or penalty to the informant. However, a single reward payment may not exceed one thousand dollars (\$1,000).

12.8 Contractor Listing

At the [City or County]'s or LOTT's discretion, Users, which have not achieved compliance with applicable pretreatment standards and requirements may be made ineligible to receive a contractual award for the sale of goods or services to the [City or County] or LOTT. Existing contracts for the sale of goods or services to the [City or County] or LOTT held by a User found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the [City or County] or LOTT.

SECTION 13 – AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.1 Upset

- A. For the purposes of this Section, the word “upset” means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to punitive actions in response to noncompliance with categorical pretreatment standards (Section 2.2), but not local limits (Section 2.4) when the requirements of Section 13.1(C) must be 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 was in compliance with applicable operation and maintenance procedures.
 3. Where the upset involved reduction, loss, or failure of its treatment facility (i.e. a power failure), the User controlled production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards until the facility was restored or an alternative method of treatment was provided.
 4. The User submitted the following information to the Executive Director within twenty-four (24) hours of becoming aware of the upset. When initially provided orally, the User must have provided a written report within five (5) days that includes:
 - a. A description of the indirect discharge and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the User seeking to establish the occurrence of

an upset shall have the burden of proof.

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

13.2 Prohibited Discharge Standards

A User will have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in Section 2.1(A) and (B)(3-7) of this Ordinance in certain cases, pursuant to 40 CFR Part 403.5(a)(2). The User must be able to 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 LOTT was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

13.3 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 a bypass to occur if it does not cause pretreatment standards or requirements to be violated and is for essential maintenance to assure efficient operation.
- C. Any other bypass must meet the following requirements:
 - 1. Users knowing in advance of the need for a bypass must submit prior notice to the Executive Director, at least ten (10) days before the bypass wherever possible; and

2. Users must tell the Executive Director of any unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours of becoming aware of the bypass. Users must provide a written follow-up report within five (5) days. The Executive Director may waive the written report if the oral report was timely and complete. Unless waived, the written report must contain:
 - a. A description of the bypass (volume, pollutants, etc.);
 - b. What caused the bypass;
 - c. When, specifically, the bypass started and ended;
 - d. When the bypass is expected to stop (if ongoing); and
 - e. What steps the User has taken or plans to take to reduce, eliminate, and prevent the bypass from reoccurring.
- D. Bypass is prohibited, and the [City or County] may take an enforcement action against a User for a bypass, unless:
1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass, which occurred during normal periods of equipment downtime or preventive maintenance; and
 3. The User submitted notices as required under Section 13.3(C).
- E. The Executive Director may approve an anticipated bypass, after considering its adverse effects, if the Executive Director determines that it will meet the three (3) conditions listed in Section 13.3(D).

SECTION 14 – WASTEWATER TREATMENT SURCHARGES AND PERMIT FEES

14.1 Excess Strength Charges

For industrial waste or other discharges exceeding the biochemical oxygen demand (BOD), total suspended solids (TSS), or total ammonia (TA) limits defined in Section 2.4(E) of this Ordinance, the following formula shall be used to determine the equivalent residential units (ERU) equivalency of the waste flow. The Executive Director may determine that all or part of a User's industrial waste or other discharge exceeding the limits defined in Section 2.4(E) results in a net benefit to the operation of the POTW, and may grant exemptions to the User from some or all of the resulting surcharges.

This formula applies only to BOD and/or TSS concentrations in excess of 300 mg/L and total ammonia in excess of 60 mg/L.

A. ERU Equivalent for High Strength Waste shall be the sum of the following:

1. Flow Calculation:

$$(P\text{-FLOW}) \times \frac{\text{Industry flow (cu ft/ month)}}{900 \text{ cu. ft. /ERU}} = \text{FLOW ERUs}$$

2. Biochemical Oxygen Demand Calculation:

$$(P\text{-BOD}) \times \frac{\text{Industry BOD (mg/L)}}{300 \text{ mg/L}} \times \frac{\text{Industry Flow (cu ft/month)}}{900 \text{ cu ft/ERU}} = \text{BOD ERUs}$$

3. Total Suspended Solids Calculation:

$$(P\text{-TSS}) \times \frac{\text{Industry TSS (mg/L)}}{300 \text{ mg/L}} \times \frac{\text{Industry Flow (cu ft/month)}}{900 \text{ cu ft/ERU}} = \text{TSS ERUs}$$

4. Total Ammonia Calculation:

$$(P\text{-TA}) \times \frac{\text{Industry TA (mg/L)}}{60 \text{ mg/L}} \times \frac{\text{Industry Flow (cu ft/month)}}{900 \text{ cu ft/ERU}} = \text{TA ERUs}$$

B. Explanation of terms

1. (P-FLOW) = Percentage treatment costs associated with hydraulic flow, equal to twenty-nine percent (29%)
2. (P-BOD) = Percentage treatment costs associated with biochemical oxygen demand, equal to thirty-four percent (34%)
3. (P-TSS) = Percentage treatment costs associated with total suspended

solids, equal to twenty-two percent (22%)

4. (P-TA) = Percentage treatment costs associated with total ammonia, equal to fifteen percent (15%)
5. ERU: (Equivalent Residential Unit) = to 900 cubic feet of wastewater containing a maximum of 300 mg/L of total suspended solids, a maximum of 300 mg/L of biochemical oxygen demand, and a maximum of 60 mg/L of total ammonia.
6. The percentage of treatment costs used in items Sections 14.1(B)(1)–(4) are calculated based on an average of documented treatment costs.
7. All monthly charges per ERU established by the “Interlocal Cooperation Act Agreement for Wastewater Management by the LOTT Wastewater Alliance by and among City of Lacey, City of Olympia, City of Tumwater, and Thurston County, dated November 5, 1999,” as amended, shall apply to ERU's calculated by the preceding formulas.

14.2. Discharge Permit Fees

Annual discharge permit fees shall be levied on each Significant Industrial User (SIU) and each Minor Industrial User (MIU) based on three criteria: (1) permitted flow rate; (2) permit complexity; and (3) potential danger to the collection system or POTW. Each permitted User will be evaluated annually by the Executive Director and placed in one of three categories; with Category III having the highest combination of flow, complexity, and risk. The Executive Director shall use the Permit Fee Category Criteria set forth in the following table.

PERMIT FEE CATEGORY CRITERIA

CRITERION	RANGE	DESCRIPTION	SCORE
Flow	High	>25,000 gpd	3
	Medium	1,000 – 25,000 gpd	2
	Low	<1,000 gpd	1
Complexity	High	Categorical SIU	3
	Medium	Non-Categorical SIU	2
	Low	MIU	1
Potential Danger	High	Excess Strength Discharge, High Spill Potential, Large Quantity Of Toxic Materials, High Flows	3
	Medium	All Others	2
	Low	Low Spill Potential, No Excess Strength, Low Or No Toxics On Site, Low Flows	1

The total scores for all criteria determines the permit category and fee according to the following table.

PERMIT FEES
2005 BASE YEAR

SCORE	CATEGORY	FEE
3-4	I	\$240
5-7	II	\$360
8-9	III	\$480

These fees shall be adjusted each calendar year for inflation by an amount equal to ninety (90) percent of the change in the Seattle-Tacoma-Bremerton area Consumer Price Index for Urban Wage and Clerical Workers (CPI-W), as published by the United States Department of Commerce Bureau of Labor Statistics, for the preceding twelve (12) month period. These discharge permit fees are in addition to the excess strength charges required in this Section, and shall be collected by the [City or County] and remitted to the LOTT Fund prior to the end of the calendar month following collection. To encourage reduction in the use of water and generation of wastewater, the annual discharge permit fee will be waived for any permitted User that achieves zero industrial wastewater discharge to LOTT in the prior calendar year.

SECTION 15 – MISCELLANEOUS PROVISIONS

15.1 Pretreatment Charges and Fees

The [City or County] or LOTT may adopt reasonable fees for reimbursement of costs of operating LOTT's Pretreatment Program, which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports submitted by Users;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;
- D. Fees for filing appeals;
- E. Fees to recover administrative and legal costs (not included in Section 15.1(B)) associated with the enforcement activity taken by the [City or County] to address User noncompliance; and
- F. Other fees as the [City or County] or LOTT may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Ordinance and are separate from all other fees, fines, and penalties chargeable by the [City or County] or LOTT.

15.2 Severability

If any provision, paragraph, word, section or article of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

15.3 Conflict

All other previously issued Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 16 – EFFECTIVE DATE

This Ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.