CHAPTER FOUR -- PUBLIC UTILITIES AND SERVICES

GENERAL

4.005 APPLICABILITY

Sections 4.010 to 4.060 shall apply generally to the provisions of Sections 4.015 to 4.990.
[Added by Ordinance No. 6288, enacted May 5, 1980.]

4.010 DEFINITIONS

(1) The following words and phrases shall mean:
   (a) Applicant. The person or persons, firm, association, corporation, or other legal entity making application for service from the City under the terms of Sections 4.005 to 4.405.
   (b) Customer. An applicant who has been accepted under the terms of the provisions of Sections 4.005 to 4.405 and who receives utility service from the City.
(2) Other terms used herein shall have the same meaning ascribed to them under the definitional section of the City's Zoning Ordinance, as now or hereafter constituted.

[Added by Ordinance No. 6288, enacted May 5, 1980.]

4.015 ADMINISTRATION

(1) The Public Works Department shall have charge of the maintenance and operation of the supply, pumping equipment, collection or distribution system, fire hydrants, meters and all other appurtenances of the water, drainage, sewer and geothermal systems under the supervision and direction of the City Manager. The Public Works Director shall supervise all extensions and alterations of the system and shall also be responsible for the reading of all meters. Subject to the approval of the City Manager, the Director or Public Works is authorized to promulgate written rules and regulations reasonably necessary to carry out the responsibilities of this Subsection. Except as otherwise specifically provided for in this Code, the Public Works Director is hereby authorized to administratively develop, adopt and implement drafting standards, grading and erosion control standards and policies, and design standards for: stormwater facilities; wastewater collection, treatment and reclamation facilities; water facilities; geothermal heating facilities; streets, rights-of-way and other related facilities; electrical, controls, instrumentation, street lighting and traffic signal facilities; and other public infrastructure facilities over which the Public Works Director exercises control. Prior to adoption and implementation of those standards, the Public Works Director shall allow opportunity for public comment and input on the proposed standards and shall provide notice to the Council not less than 30 days prior to implementation. (2) The Finance Division shall be responsible for the collection of water, sewer, drainage and geothermal bills. All revenues therefrom shall be accounted for in a manner satisfactory to the Council for other municipal deposits. Subject to the approval of the City Manager, the Finance Director is authorized to promulgate written rules and regulations reasonably necessary to carry out the responsibilities of this Subsection.
(3) The City, through its Finance Division, reserves the right to require 1 utility account for premises served by 2 or more City utility services. Such joint accounts shall be in the name of one customer. The City reserves the right to refuse or discontinue service if such a requirement is not complied with.

[Added by Ordinance No. 6288, enacted May 5, 1980; Amended by Ordinance No. 6614, enacted Jan. 16, 1991; Amended by Ordinance No. 02-23, enacted Dec. 17, 2002.]

4.020 RATES, CHARGES AND FEES FOR CITY-OPERATED UTILITIES

(1) The consumption rates, demand charges, capacity charges and customer charges to defray administrative costs, all of which may be imposed for City-operated utilities, shall be established by Resolution of the Council and may be revised by Resolution of the Council at any time. Provided, however, that all proposed revisions shall be the subject of a public hearing before the Council which shall be advertised in a manner reasonably calculated to give notice to the public of the

revisions.

(2) Connection charges, service charges and such other utility-related charges and fees that do not constitute part of the monthly City utility billing amounts may be set and modified by the City Manager in accordance with the requirements of Section 1.075.

[Added by Ordinance No. 6288, enacted May 5, 1980; Amended by Ordinance No. 07-09; enacted Mar. 5, 2007; Amended by Resolution No. 10-16, enacted May 18, 2010; Amended by Ordinance No. 15-01, enacted Feb. 2, 2015.]

4.025 SUSPENSION OF RULES

No employee of the City is authorized to suspend or alter any of the applicable provisions herein without specific approval or direction of the Council, except in cases of emergency involving possible loss of life or property or which would place the system operation in jeopardy.

[Added by Ordinance No. 6288, enacted May 5, 1980.]

4.030 PLUMBING CODE

The customer's plumbing, which shall include the customer's service line and all plumbing, piping, fixtures and other appurtenances carrying or intended to carry water, geothermal, sewer, or drainage, shall comply with the plumbing code of the State, as adopted pursuant to ORS Chapter 447.

[Added by Ordinance No. 6288, enacted May 5, 1980.]

4.035 NOTICES

(1) Notices to Customers. Notice from the City to the customer shall be in writing and either mailed or delivered to the customer at his/her last known address. When conditions warrant and in emergencies, the City may notify either by telephone or messenger.

(2) Notices from Customers. Notices from the customer to the City may be given by the customer or his/her authorized representative in person or in writing at the office of the Public Works Department in City Hall or to an agent of the City duly authorized to receive notices or complaints.

[Added by Ordinance No. 6288, enacted May 5, 1980.]

4.038 APPLICATION FOR SERVICE

(1) Each applicant for City utility service shall sign an application form provided by the City giving the date of application, location of premises to be served, the date the applicant desires services to begin, purpose for which service is to be used, the address for mailing the bills and such other information as the City may reasonably require. In signing the application, the customer agrees to abide by the provisions of this Chapter applicable to the service requested. The application is merely a written request for service and does not bind the City to serve.

(2) At the time application for service is made, the applicant shall establish credit with the City.

(a) Any applicant or present customer who has been scheduled for water service discontinuance under Sections 4.262 to 4.272, or who has had a City utility account turned over to a collection agency shall be required to make a deposit double the average monthly usage during the previous 12-month period or a minimum of $75 at the time of application. No service shall be provided until receipt of said deposit. The minimum deposit may from time to time be modified by written order of the City Manager. These orders shall be filed with the City Council prior to the imposition of any modified deposit, and shall be subject to review and revision by the City Council at the request of any one Councilperson.

(b) At the time the deposit is given to the City, the applicant will be given a receipt for the same. The deposit is not to be considered as a payment on account. In the event the service is discontinued, the deposit shall be applied to the closing bill, if not paid within 15 days, and any amount in excess of the closing bill shall be refunded. The City will not pay interest on any deposit. After the expiration of 1 year's continuous water service, the deposit shall be refunded on written request of the applicant, provided during said time period applicant has not been sent 3 or more delinquent notices under Section 4.050 nor has had water service discontinued under Sections 4.262 or 4.272.

(c) If an account becomes delinquent and it is necessary to turn off the service, the

deposit shall be applied to the unpaid balance due in accordance with Section 4.040(2). Service will not be restored to that customer at any address until Section 4.275 has been complied with and the cash deposit replaced or provided to City.

(3) An "Unpaid Accounts" file shall be established into which all unpaid utility accounts shall be placed under the name of the party who actually incurred and owes the unpaid account. No such party shall be given utility service by the City at any address until that applicant first pays such old account in full, plus any and all penalties incurred.

(4) Customers desiring a material change in the size, character or extent of equipment or operation which would result in a material change in the amount of service used shall give the City written notice of such change prior to the change, and the application for service shall be amended and the applicant shall pay all charges, as established by Sections 4.020, 4.419 or 4.250. Customers desiring a change shall fill out an amended application.

(5) The City may refuse to provide service to a person until it receives full payment of any overdue amount and any other obligation related to a prior account.

[Added by Ordinance No. 6562, enacted Jan. 17, 1989; Amended by Ordinance No. 6342, enacted June 15, 1981; Amended by Ordinance No. 6400, enacted Aug. 2, 1982; Amended by Ordinance No. 6562, enacted Jan. 17, 1989; Amended by Ordinance No. 6622, enacted July 17, 1991; Amended by Ordinance No. 6634, enacted April 15, 1992; Amended by Ordinance No. 97-15, enacted May 19, 1997; Amended by Ordinance No. 03-01, enacted Jan. 6, 2003.]

4.040 BILLING AND PAYMENT

(1) Sewer, water, drainage, street lighting and geothermal service charges may be billed monthly, bimonthly, or quarterly to the customer and shall be paid at the place and on or before the due date designated upon the bill.

(2) All payments received on a billing pursuant to Subsection (1) shall be applied to amounts remaining due and payable on the customer's sewer account; second to the street lighting account; third to the drainage account; fourth to the geothermal account; and last to the water account.

(3) The City Manager or his/her designee shall have the authority to resolve valid customer disputes concerning billings and/or usage (such as leaks beyond the control of the customer) and to make adjustments in the customer's account where necessary.

[Added by Ordinance No. 6288, enacted May 5, 1980; Amended by Ordinance No. 6558, enacted Aug. 1, 1988; Amended by Ordinance No. 6634, enacted April 15, 1992.]

4.045 RESPONSIBLE PARTIES [REPEALED]

[Added by Ordinance No. 6288, enacted May 5, 1980; Repealed by Ordinance No. 6621, enacted June 17, 1991.]

4.050 DELINQUENT ACCOUNTS

(1) A bill sent pursuant to Section 4.040 is delinquent if not paid within 15 days of the billing date. If a bill is not paid by the due date designated on the bill, a delinquent notice shall be mailed to the customers. If the bill is not paid in full within 7 days of the mailing of a delinquent notice, water service may be discontinued by the City. In the event it is a sewer only account, sewer service may be physically disconnected in the public right-of-way, provided certified notice has been given to the customer.

(2) Customers shall be notified of and have the opportunity to be heard by a City official or employee empowered to resolve any valid objections to the billing prior to the disconnection.

(3) In cases of extreme hardship, the Finance Division shall have the discretion of renewing service to a delinquent account upon receipt of a satisfactory installment plan for the payment of the overdue amount, said installment period not to exceed the period of time the account was delinquent. When the extreme hardship is due to incapacitating illness, the Finance Division shall, upon confirmation by the treating physician, renew service and defer the customer's obligation to make payments on the account until such time as the customer is able to resume income-producing activities.

(4) Sewer service which has been physically disconnected shall only be reinstated upon payment of all costs related to the disconnection and re-connection in addition to payment of all delinquent charges.

[Added by Ordinance No. 6288, enacted May 5, 1980; Amended by Ordinance No. 6562, enacted Jan. 17, 1989; Amended by Ordinance No. 93-8, enacted May 17, 1993.]

4.052 MEDICAL CERTIFICATE

(1) The City shall not disconnect residential service if the customer submits certification from a licensed physician stating that disconnection would significantly endanger the physical health of the customer or a member of the customer's household.

(2) An oral certification must be confirmed in writing within 10 days by the physician prescribing medical care. Written certifications must include:
   (a) The name of the person to whom the certificate applies and the relationship to the customer;
   (b) A complete description of the health conditions;
   (c) An explanation how the health of the person will be significantly endangered by the termination of service;
   (d) A statement indicating how long the health condition is expected to last; and
   (e) The signature of the physician prescribing medical care.

(3) If a medical certificate is not submitted in compliance with Sections (1) and (2), the City may disconnect service after providing a 72 hour notice to the customer.

(4) A medical certificate shall be valid only for the length of time the health endangerment is certified to exist, but no longer than 6 months without renewal.

(5)(a) A customer submitting a medical certificate is not excused from paying for utility service. Customers are required to enter into a time-payment agreement with the City where an overdue balance exists.
   (b) Where financial hardship can be shown, a customer with a health certificate shall be permitted to renegotiate the terms of a time-payment agreement with the City.

(6) If the customer who has submitted a medical certificate fails to abide by the terms of a time-payment agreement, or refuses to enter into such an agreement, the City may disconnect service to the customer.

[Added by Ordinance No. 6622, enacted July 17, 1991.]

4.055 REMEDIES FOR NONPAYMENT

If the charges provided for herein are not paid when due, the amount, with any delinquency charges, may be recovered from the customer, in any court of competent jurisdiction, and the City shall be allowed, as costs, a reasonable a amount to be fixed by the Court as attorney's fees for the prosecution of the action.

[Added by Ordinance No. 6288, enacted May 5, 1980; Amended by Ordinance No. 6621, enacted June 17, 1991.]

4.060 EXTENSION OF SERVICES OUTSIDE CITY

(1) Extension of services outside the City shall be at the discretion of the City Council. The City Council reserves the right to refuse, or to contract for, such extensions upon terms beneficial to the City. Contracts for the extension of services may be made conditional upon the applicant's consent to annexation.

(2) The Health Hazard Abatement Law shall not be applied to the City to require that the City extend services to or annex lands outside the City limits. The City Council may, by Resolution, waive this limitation upon finding, following a public hearing, that:
   (a) the proposed annexation and extension of services would be in the best interests of the City residents; and
   (b) adequate funding exists through grants and/or the financial resources of the area to be annexed to pay the full cost of the services to be extended.

[Added by Ordinance No. 6288, enacted May 5, 1980; Amended by Ordinance No. 93-3, enacted March 2, 1993.]

SEWERS

GENERAL

4.100 PURPOSE AND POLICY

(1) City Code Sections 4.100 through 4.186, hereinafter referred to as "Sewer Use Ordinance," set forth uniform requirements for Users of the Publicly Owned Treatment Works (POTW) for the City of Klamath Falls and enables the City to comply with all applicable State and Federal laws including the Clean Water Act (Act, 33 U.S.C. 1251 et seq.), the General Pretreatment Regulations (40 CFR Part 403) and Oregon Administrative Rules (OAR) Chapter 340. The objectives of the Sewer Use Ordinance are:

(a) To prevent the introduction of Pollutants into the POTW that will interfere with the operation of the POTW;

(b) To prevent the introduction of Pollutants into the POTW that will be conveyed through the POTW, inadequately treated, into receiving waters or the atmosphere or that will otherwise be incompatible with the POTW;

(c) To protect both POTW personnel, who may be affected by Wastewater and sludge in the course of their employment, and the general public;

(d) To preserve the hydraulic capacity of the POTW;

(e) To promote the reuse and recycling of Wastewater and sludge from the POTW;

(f) To provide for equitable distribution of the cost of operation, maintenance and improvements of the POTW; and

(g) To ensure the City complies with its NPDES permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the POTW is subject.

(2) The Sewer Use Ordinance shall apply to all Users and Domestic Users of the POTW. It authorizes the issuance of individual and general 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.

(3) The Sewer Use Ordinance is gender neutral and the masculine gender shall include the feminine and vice versa. Shall is mandatory; may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

4.101 ADMINISTRATION

Except as otherwise provided herein, the Division Manager shall administer, implement and enforce the provisions of the Sewer Use Ordinance. Any powers granted to or duties imposed herein upon the Division Manager in this Ordinance may be delegated to other duly authorized City personnel.

4.102 DEFINITIONS

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

(1) Act or the Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C.1251 et seq.

(2) Approval Authority. The Oregon Department of Environmental Quality (DEQ)

(3) Authorized Representative of the Industrial User.

(I) If the Industrial User is a corporation, Authorized Representative shall mean:

(a) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other individual 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 to 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 has been assigned or delegated authority to sign documents in accordance with corporate procedures.

(II) If the Industrial User is a partnership, association, or sole proprietorship, Authorized Representative shall mean the general partner, managing partner or other highest responsible partner in the partnership, or highest responsible Person in the association, or the proprietor, respectively:

(III) If the Industrial User is a Federal, State or local government, Authorized Representative shall mean: the highest official appointed or designated to oversee the operation and performance of the activities of the governmental body.

(IV) The individuals described in subsections (I) through (III) above may designate another duly 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 authorization is submitted to the City.

(4) Best Management Practice (BMP). BMPs are a schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sections 4.110 (1) and (2) [40 CFR 403.5(a)(1) and (b). BMPs also include Treatment or Pretreatment Requirements and Standards, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs may also include alternative means of complying with, or in place of certain established Categorical Pretreatment Standards and effluent limits (e.g., management plans).

(5) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, 5 days at 20° centigrade usually expressed as a concentration (milligrams per liter mg/l).

(6) Building Sewer. A sewer conveying Wastewater from the premises of a User to the POTW.

(7) Categorical Pretreatment Standard or Categorical Standard. Any regulation containing Pollutant Discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act (33 U.S.C. 1317) which applies to a specific category of Industrial Users and which appears in 40 CFR Chapter I, Subchapter N, Parts 405-471, incorporated herein by reference.

(8) City. The City of Klamath Falls, Oregon, a Municipal Corporation of the State of Oregon, acting through its Council or any board, committee, body, official, or Person to whom the Council shall have lawfully delegated the power to act for or on behalf of the City.

(9) Color. The optical density at the visual wave length of maximum absorption, relative to distilled water. 100% transmittance is equivalent to zero (0.0) optical density.

(10) Composite Sample. The sample resulting from the combination of individual Wastewater samples taken at selected intervals based on either an increment of flow or time.

11) Control Authority. The term "Control Authority" shall mean the City.

(12) Continuing Violation. A Violation that occurs for more than one day.

(13) Cooling Water. The water discharged from any use such as air conditioning, cooling or refrigeration, to which the only Pollutant added is heat.

(14) Department of Environmental Quality or DEQ. The Oregon Department of Environmental Quality or where appropriate, the term may also be used as a designation for the Director of the Department or other duly authorized official of the Department.

(15) Daily Discharges. The Discharge of pollutants in a 24 hour period to the POTW.

(16) Daily Maximum. The highest (most extreme) sample collected over a 24 hour period.

(17) Director or Public Works Director. The City Public Works Director or his or her duly authorized designee.

(18) Discharge, Discharges, or Discharged. The introduction of Pollutants into the POTW from

any non-domestic source regulated under Section 307 (b), (c) or (d), of the Act.

(19)Division Manager. The individual designated by the City to supervise the operation of the POTW and who is charged with certain duties and responsibilities by the Sewer Use Ordinance, or his or her duly authorized representative.

(20)Domestic User, or 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 to that of a residential dwelling unit. Discharges from a residential dwelling unit typically include up to 100 gallons per capita per day, 0.2 pounds of BOD per capita per day, and 0.17 pounds of TSS per capita per day.

(21)Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of said agency.

(22)Existing Source. Any source of Discharge, the construction or operation of which commenced prior to the publication of proposed Categorical Pretreatment Standards under section 307 (b) and (c) (33 U.S.C. 1317) of the Act which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

(23)Grab Sample. A sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

(24)Hauled Waste. Any waste trucked or hauled, including septic tank waste and non-septic waste with hazardous characteristics.

(25)Indirect Discharge (See also "Discharge"). The introduction of Pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.

(26)Industrial User, or User. Any Person which is a source of Discharge or Indirect Discharge, or any Person who otherwise contributes, or causes or allows the contribution of Industrial Wastewater into the POTW, including Persons who contribute such wastes from mobile sources.

(27)Industrial Wastewater. A non-domestic Wastewater originating from an Indirect Discharge.

(28)Infiltration. Any water other than Wastewater which enters the Sewage Treatment System (including service connections) from the ground, typically from broken pipes, defective joints in pipes and manhole walls.

(29)Inflow. Any water from storm water runoff which directly enters the Sewage POTW during or immediately after rainfall. Typical points of entry include, but are not limited to, connections with roof and area drains, storm drain connections, holes in manhole covers in flooded streets, Cooling Water Discharges, catch basins, and drainage from springs and swampy areas.

(30)Interceptor. A device designed and installed so as to adjust, separate and retain deleterious, hazardous or undesirable matter from Wastewater and to permit normal Sewage or liquid wastes to Discharge from the User's premises into the POTW.

(31)Interference. A Discharge which, alone or in conjunction with a Discharge or Discharges from other sources, both:

Inhibits or disrupts the POTW, its Treatment processes or operations, or its sludge processes, use or disposal; and

Is a cause of a Violation of any requirements of the City's NPDES Wastewater Permit (including an increase in the magnitude or duration of a Violation) or of the prevention of Sewage sludge use or disposal in compliance with the following statutory provisions and regulations, or permits issued, or any more stringent State or local regulations: Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection research and Sanctuaries Act.

(32)Local Limits. Enforceable local requirements developed by POTWs to address Federal Standards as well as State and local regulations. Local Limits apply only to Significant Industrial Users (SIUs) as defined by the City.

(33)Maximum Daily Allowable or Daily Maximum Limits. The Maximum Daily Allowable

Discharge limit of any Pollutant during a calendar day.

(34) Medical Waste. Isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

(35) Monthly Average Allowable. The highest allowable average of the Daily Discharges in a calendar month, which is calculated as the sum of all the Daily Discharges measured during that month, divided by the number of Daily Discharges taken during the month.

(36) National Pretreatment Standard. National Pretreatment Standard is defined in 40 CFR 403.3 (j) as any regulation containing Pollutant Discharge limits promulgated by EPA under Section 307 (b) and (c) of the Clean Water Act applicable to Industrial Users, including the general and specific prohibition found in 40 CFR 403.5.

(37) New Source.

(I) Any building, structure, facility or installation from which there is or may be a Discharge of Pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307 (c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility or installation completely replaces the process or production equipment that causes a Discharge 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.

(II) 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 paragraphs (I)(a), (I)(b), or (I)(c) but otherwise alters, replaces, or adds to existing process or production equipment.

(III) Construction of a New Source as defined under this paragraph has commenced if the owner or operator:

(a) Has begun, or caused to begin as part of a continuous on-site construction program:

(i) Any placement, assembly, or installation of facilities or equipment; or

(ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Sources facilities or equipment; or

(b) Has 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 contacts 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.

(38) Non-Contact Cooling Water. Water used for cooling that does not come in direct contact with any raw material, intermediate product, waste product, or finished product.

(39) Pass Through. A Discharge which exits the Treatment Plant Effluent into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a Discharge or Discharges from other sources, is a cause of a Violation of any requirement of the City's NPDES (including an increase in the magnitude or duration of a Violation).

(40) Person. Any individual, partnership, Co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents

or assigns. This definition includes all Federal, State, or local governmental entities.

(41)pH. The logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed in moles per liter of solution.

(42)Pollutant. Any dredged spoil, solid waste, incinerator residue, filter backwash, Sewage, garbage, Sewage sludge, munitions, Medical Wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and agricultural wastes, anything that contaminates and certain characteristics of Wastewater (e.g., pH, temperature, TSS, turbidity, Color, BOD, COD, toxicity or odor).

(43)Pretreatment, or Treatment. The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in Wastewater prior to or in lieu of introducing such Pollutants into the POTW. This reduction or alteration may be obtained by physical, chemical or biological processes, by process changes or by other means.

(44)Pretreatment Requirement. Any substantive or procedural requirements related to Pretreatment, other than National Pretreatment Standards, imposed on an Industrial User.

(45)Pretreatment Standards, or Standards. Prohibited Discharge Standards, Categorical Pretreatment Standards, and Local Limits established for Discharges.

(46)Prohibited Discharge Standard, or Prohibited Discharges. Absolute prohibitions against the Discharge of certain types or characteristics of Wastewater as established by EPA, DEQ and/or the Division Manager.

(47)Publicly Owned Treatment Works, or POTW. A Treatment works, as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, Treatment, recycling, and reclamation of Sewage or industrial wastes of a liquid nature and any conveyances which convey Wastewater to a Treatment Plant

(48)Public Sewer, Public Sanitary Sewer, and Public Stormwater Sewer. A Sewer owned and operated by the City of Klamath Falls.

(49)Public Works Director, or Director. The City Public Works Director or his or her duly authorized designee.

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

(51)Residential User, or Domestic 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 to that of a residential dwelling unit. Discharges from a residential dwelling unit typically include up to 100 gallons per capita per day, 0.2 pounds of BOD per capita per day, and 0.17 pounds of TSS per capita per day.

(52)Sewage. Human excrement and gray water (household showers, dish washing operations, etc.)

(53)Sewer. Any pipe, conduit, ditch, or other device used to collect and transport sewage or storm water from the generating source.

(54)Significant Industrial User, or SIU.

Except as provided in paragraphs (3) and (4) of this definition, a Significant Industrial User is:

(1) An Industrial User subject to Categorical Pretreatment Standards.

(2) An Industrial User that:

(a) Discharges an average of 25,000 gpd or more of process Wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown Wastewater); or

(b) Contributes a process waste stream which makes up 5% 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 City may determine that an Industrial User subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N is a Non-Significant Categorical Industrial User

rather than a Significant Industrial User on a finding that the Industrial User never Discharges more than 100 gallons per day (gpd) of total Categorical Wastewater (excluding sanitary, non-contact cooling and boiler blowdown Wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

(a) The Industrial User, prior to the City finding, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;

(b) The Industrial User annually submits the certification statement required in Section 4.132(5) together with any additional information necessary to support the certification statement; and

(c) The Industrial User never Discharges any untreated concentrated Wastewater.

(4) Upon a finding that a User meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting the POTWs operation or for violating any applicable Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from a User and in accordance with procedures established according to 40 CFR 403.8(f)(6) determine that such User should not be considered a Significant Industrial User

(55) Spill Prevention/Slug Control Plan, or SP/SCP. A plan prepared in accordance with Section 4.122, by the User which provides protection for the POTW from accidental or intentional Discharges of materials which may cause Interference Pass Through, worker health or safety problems, or damage to the POTW.

(56) Slug or Slug Discharge. Any Discharge at a flow rate or concentration, which could cause a Violation of the Prohibited Discharge standards in Section 4.110 of this Ordinance. A Slug Discharge is any Discharge of a Pollutant (including BOD) released in a non-routine, episodic nature, including but not limited to an accidental spill, or non-customary batch Discharge which has a reasonable potential to cause a Interference or Pass Through, or in any other way violate the City's regulations, Local Limits or permit conditions.

(57) Standards, or Pretreatment Standards. Means the Prohibited Discharge Standards, Categorical Pretreatment Standards, and Local Limits established for Discharges.

(58) State. State of Oregon

(59) Stormwater. Any flow occurring during or following any form of natural precipitation and resulting therefrom, including snow melt.

(60) Total Suspended Solids or Suspended Solids (TSS). 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.

(61) Toxic Pollutant. One of the Pollutants or combination of those Pollutants listed as toxic in regulations promulgated by the Environmental Protection Agency under the provision of Section 307 (33 U.S.C. 1317) of the Act.

(62) Treatment Plant. That portion of the POTW designed to provide Treatment of Sewage and industrial waste.

(63) Treatment Plant Effluent. Any Discharge of Pollutants from the POTW into Waters of the State.

(64) User, Users, or Industrial User. Any Person which is a source of Discharge or Indirect Discharge, or any Person who otherwise contributes, or causes or allows the contribution of Industrial Wastewater into the POTW, including Persons who contribute such wastes from mobile sources.

(65) Violation. A Violation shall have occurred: when any Requirement of the Sewer Use Ordinance has not been met; or when a written request of the Division Manager, made under the authority of the Sewer Use Ordinance, is not met within the specified time; or when a condition of a permit or contract issued under the authority of the Sewer Use Ordinance is not met within the specified time; or when permitted effluent limitations are exceeded, regardless of intent or accident; or when false information has been provided by a Person who Discharges. Every day a Violation occurs is a separate and distinct Violation.

(66) Wastewater. The liquid and water-carried industrial wastes, or Sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which is contributed to the POTW.

(67) Wastewater Discharge Permit, Discharge Permit. A control mechanism issued under the authority of this Sewer Use Ordinance to industrial dischargers which prescribes certain Discharge Requirements and limitations.

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

4.103 ABBREVIATIONS

The following abbreviations shall have the designated meanings:

BMP	Best Management Practice
BMR	Baseline Monitoring Report
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
CIU	Categorical Industrial User
COD	Chemical Oxygen Demand
DEQ	Oregon Department of Environmental Quality
EPA	U.S. Environmental Protection Agency
FOG	Fats, oils and greases
gpd	Gallons Per Day
LC_{50}	Lethal Concentration for 50% of the Test Organisms
l	Liter
mg	Milligrams
mg/l	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
NSCIU	Non-Significant Categorical Industrial User
O&M	Operation and Maintenance
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
SIU	Significant Industrial User
SNC	Significant Non-Compliance
su	Standard units
SWDA	Solid Waste Disposal Act (42 U.S.C. 6901, et seq.
TSS	Total Suspended Solids
U.S.C.	United States Code

4.104 REQUIRED USE OF PUBLIC SANITARY SEWERS

(1) It shall be unlawful to Discharge to any natural outlet, sanitary sewer or storm drainage system within the City, or in any area under the jurisdiction of the City, any Sewage or other polluted waters, except where suitable Treatment has been provided in accordance with other provisions of the Sewer Use Ordinance.

(2) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of Sewage.

(3) The Person in control of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at his/her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper Public Sewer in accordance with the provisions of the Sewer Use Ordinance, within 90 days after date of official notice to do so, provided that said Public Sewer is within 200 feet (60 meters) of the property line and/or at the distance(s) defined in OAR 340-071-0160(4)(f)(A)&(B).

4.105 PRIVATE SEWAGE DISPOSAL

(1) Where a public sanitary sewer is not available under the provisions of Section 4.104, the Building Sewer shall be connected to a private Sewage disposal system complying with those requirements set by the DEQ and Klamath County.

(2) Before commencement of construction of a private Sewage disposal system, the Person in control of the premises shall first obtain a written permit from the DEQ.

(3) At such time as a Public Sewer becomes available to a property served by a private Sewage disposal system as provided in Section 4.104, a direct connection shall be made to the public sewer in compliance with the Sewer Use Ordinance, and any septic tanks, cesspools, and similar private Sewage disposal facility shall be abandoned in

accordance with State law at no expense to the City.

(4) The Person in control of the premises shall operate and maintain the private Sewage disposal facilities in a sanitary manner at all times at no expense to the City;

(5) No statement contained in this article shall be construed to interfere with any additional Requirements that may be imposed by the DEQ.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.106 CONNECTION OF BUILDING SEWERS

(1) No unauthorized Person shall uncover, make any connections with or opening into, use, alter, or disturb any Public Sewer or appurtenance thereof without first obtaining a written permit from the Director or authorization from any other duly authorized employee of the City.

(2) There shall be 2 classes of Building Sewer permits:

(a) For residential and commercial service; and

(b) For service to establishments producing industrial wastes. In either case, the Person in control of the premises shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Director. A permit and inspection fee for each class shall be established by Resolution and shall be paid to the City at the time the application is filed.

(3) All costs and expense incident to the installation and connection of the Building Sewer shall be borne by the Person in control of the premises. The Person in control of the premises shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the Building Sewer.

(4) A separate and independent Building Sewer shall be provided for every building; provided, however, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear of the front building, the Building Sewer from the front building may be extended to the rear building and the whole considered as one Building Sewer.

(5) Old Building Sewers may be used in connection with new buildings only when they are found, on examination and test by the Director, to meet the requirements of the Sewer Use Ordinance.

(6) The size, slope, alignment, materials of construction of a Building Sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the State Building Code and Plumbing Code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification, the materials and procedures set forth in appropriate specifications of the A.S.T.M. (American Standards for Testing Materials) and W.P.C.F. (Water Pollution Control Federation) Manual of Practice No. 9 shall apply.

(7) Whenever possible, the Building Sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary Sewage carried by such building drain shall be lifted by an approved means and Discharged to the Building Sewer. City Code Backflow prevention for basements shall be provided in a vault, allowing for inspection and maintenance.

(8) No Person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a Building Sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(9) The connection of the Building Sewer into the public sewer shall conform to the requirements of the State Building Code and Plumbing Code, other applicable rules and regulations of the City, as well as the procedures set forth in applicable specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Director or his representative, in compliance with the State plumbing inspector.

(10) The applicant for the Building Sewer permit

shall notify the Director when the Building Sewer is ready for inspection and connection to the Public Sanitary Sewer. The connection shall be made under the supervision of the Director or his representative, in compliance with the State plumbing inspector.

(11) All excavations for Building Sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City. Any person performing Building Sewer work within any street, alley, roadway or right-of-way shall obtain a Site Construction Permit from the City as provided in Sections 8.500 through 8.545.

(12) The portion of the sanitary sewer lateral that resides in the public right-of-way shall be the responsibility of the property owner if it does not meet current City of Klamath Falls engineering standards. If the sewer lateral within the right-of-way is brought up to current Engineering Standards, the City will assume responsibility for repair and maintenance. To assist the property owner in bringing the sewer lateral in the right-of-way up to current City of Klamath Falls Engineering Standards, the City will obtain construction quotes from qualified contractors and pay for one-half of the work. If the property owner elects not to bring the lateral in the right-of-way up to current standards, any repair work, cleaning, or associated tasks will be the sole responsibility of the property owner. The portion of the sanitary sewer lateral that goes from the right-of-way line to the building is the responsibility of the property owner.

[Added by Ordinance No. 09-04, enacted April 20, 2009; Amended by Ordinance No. 15-06, enacted June 15, 2015.]

4.107 INDUSTRIAL USE OF PUBLIC SEWERS

(1) No Person shall Discharge or cause to be Discharged any Stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling or heating water, or industrial process waters not containing pollutants to any public sanitary sewer unless specifically authorized by the Director.

(2) Storm water and all other drainage not containing pollutants shall be Discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Director. Industrial Cooling Water, process waters not containing pollutants, or heating water may only be Discharged to a public storm sewer or natural outlet, unless specifically authorized by the Director.

(3) The Director permits the Pretreatment or equalization of waste flows. The design and installation of the plants and equipment shall be subject to the review and approval of the Director, and subject to the requirements of all applicable codes, Ordinances, and laws.

(4) Where preliminary Treatment or flow-equalizing facilities are provided for any water or wastes, they shall be maintained continuously per industry standards or manufacturer's recommendations by the Person in control of the premises at his/her expense.

(5) When required by the Director, the Person in control of the premises serviced by a Building Sewer carrying Industrial Wastewater shall install a suitable control manhole together with such necessary meters and other appurtenances in the Building Sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Director. The manhole shall be installed by the owner at his/her expense, and shall be maintained by him/her so as to be safe and accessible at all times.

(6) No statement contained in this Section shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an Industrial Wastewater of unusual strength or character may be accepted by the City for Treatment, subject to payment therefore, by the industrial concern.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.108 PROTECTION FROM DAMAGE

No unauthorized Person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with or prevent access to any structure, appurtenance, or

equipment which is a part of the POTW. Any Person violating this provision shall be subject to immediate arrest and subject to the criminal sanctions set forth in Section 4.174 and the laws of this State.
[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.109 POWERS AND AUTHORITY OF INSPECTORS

(1) The Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of the Sewer Use Ordinance.
(2) While on private premises pursuant to this Section, the Director or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the owner or operator of the premises.
(3) The Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties pursuant to the provisions of Section 4.157 for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the public Sewage works.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.110 PROHIBITED DISCHARGE STANDARDS

(1) General Prohibitions. No User or Domestic User shall contribute or cause to be contributed, directly or indirectly, any Pollutant or Wastewater which will cause Interference or Pass Through. These general prohibitions apply to all Users and Domestic Users of the POTW whether or not the User/Domestic User is subject to Categorical Pretreatment Standards or any other National, State or local Pretreatment Standards or Requirements.
(2) Specific Prohibitions. No User or Domestic User shall introduce or cause to be introduced into the POTW, the following Pollutants, Substances or Wastewaters:
   (a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW. Included in this prohibition are waste streams with a closed cup flash point of less than 140° F (60° C) using the test methods prescribed in 40 CFR 261.21.
   (b) Solid or viscous substances in amounts which will cause Interference with the flow in a sewer but in no case solids greater than one half inch (1/2") (1.27 centimeters) in any dimension. The installation and operation of any garbage grinder in a commercial establishment equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Director.
   (c) Any fat, oils or greases, including but not limited to petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through.
   (d) Any Wastewater having a pH less than 5.0 su. or more than 12.5 su., or which may otherwise cause corrosive structural damage to the POTW, City personnel or equipment. IU discharge requirements may be more restrictive as specified in their discharge permit.
   (e) Any Wastewater containing Pollutants (including oxygen demanding pollutants) in sufficient quantity (flow or concentration), either singly or by interaction with other Pollutants, to Pass Through or interfere with the POTW, any Wastewater Treatment or sludge process, or constitute a hazard to humans or animals.
   (f) Any noxious or malodorous liquids, gases, or solids or other Wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
   (g) Any substance which may cause the Treatment Plant Effluent or any other residues, sludge, or scum, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance be Discharged to the POTW cause the City to be in

noncompliance with sludge use or disposal regulations or permits issued under Section 405 of the Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or other State requirements applicable to the sludge use and disposal practices being used by the City.

(h) Any Wastewater which imparts Color which cannot be removed by the Treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts Color to the Treatment Plant's Effluent thereby violating the City's Wastewater NPDES permit.

(i) Any Wastewater having temperature greater than 150° F (65° C), being introduced into the City's collection system, or which will inhibit biological activity in the Treatment Plant resulting in Interference, but in no case Wastewater which causes the temperature at the introduction into the Treatment Plant to exceed 104° F (40° C).

(j) Any Wastewater containing any radioactive waste or isotopes except as specifically approved by the Division Manager in compliance with applicable State and Federal regulations.

(k) Any Pollutants which result in the presence of toxic gases, vapor or fumes within the POTW in a quantity that may cause worker health and safety problems.

(l) Any hauled Pollutants, except at Discharge-points designated by the City in accordance with Section 4.124Ordinance.

(m) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, Cooling Water and unpolluted Industrial Wastewater, unless specifically included in an application for a Wastewater Discharge Permit and authorized by the Division Manager.

(n) Any sludge, screening, or other residues from the Pretreatment of industrial wastes.

(o) Any Medical Wastes, except as specifically authorized by the Division Manager in a Wastewater Discharge Permit.

(p) Any material containing ammonia, ammonia salts, or other chelating agents which may produce metallic complexes that may interfere with the POTW, unless specifically included in an application for a Wastewater Discharge Permit and authorized by the Division Manager.

(q) Any material identified as hazardous waste according to 40 CFR Part 261 except as specifically authorized by the Division Manager.

(r) Any Wastewater causing the Treatment Plant Effluent to demonstrate toxicity to test species during a bio-monitoring evaluation.

(s) Recognizable portions of the human body or animal anatomy.

(t) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the POTW.

(3) Waste prohibited by this section shall not be processed or stored in such a manner that the waste could be Discharged to the POTW.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.111 NATIONAL CATEGORICAL PRETREATMENT STANDARDS

(1) Users subject to Categorical Pretreatment Standards are required to comply with applicable Standards set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

(a) Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a Pollutant in Wastewater, the Division Manager may impose equivalent concentration or mass limits in accordance with Section 4.111 (1)(e).

(b) When Wastewater subject to a Categorical Pretreatment Standard is mixed with Wastewater not regulated by the same standard, the Division Manager shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(c) A User may obtain a variance from Categorical Pretreatment Standard if the User can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its Discharges are fundamentally different

from the factors considered by EPA when developing the Categorical Pretreatment Standard.

(d) When the limits in a Categorical Pretreatment Standard are expressed only in terms of mass of Pollutants per unit of production, the Division Manager, may convert the limits to equivalent limitations expressed either as mass of Pollutant Discharged per day or effluent concentrations for purpose of calculating effluent limits applicable to individual Industrial Users.

(e) When a Categorical Pretreatment Standard is expressed only in terms of Pollutant concentrations, an Industrial User may request that the City convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Division Manager. The City may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in the following paragraphs.

(i) To be eligible for equivalent mass limits, the Industrial User must:

(A) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual Wastewater NPDES permit;

(B) Currently use control and Treatment technologies adequate to achieve compliance with the applicable Categorical Pretreatment Standard, and not have used dilution as a substitute for Treatment;

(C) Provide sufficient information to establish the facility's actual average daily flow rate for all Wastewater streams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

(D) Not have daily flow rates, production levels, or Pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and

(E) Have consistently complied with all applicable Categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

(ii) 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 rates through the use of a continuous effluent flow monitoring device;

(C) Continue to record the facility's production rates and notify the Division Manager whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph (1)(e)(iii). Upon notification of a revised production rate, the Division Manager will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

(D) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraph (1)e)(i)(A) so long as it Discharges under an equivalent mass limit.

(iii) When developing equivalent mass limits, the Division Manager:

(A) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable Categorical Pretreatment Standard and the appropriate unit conversion factor;

(B) Upon notification of a revised production rate, will reassess the

equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

(C) May retain the same equivalent mass limit in subsequent individual Wastewater Discharge permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for Treatment pursuant to Section 4.116. The Industrial User must also be in compliance with Section 4.184 regarding the prohibition of "Bypass."

(f) The Division Manager may convert the mass limits of the Categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Division Manager. When converting such limits to concentration limits, the Division Manager will use the concentrations listed in the applicable subparts of 40 CFR Parts 414, 419, and 455 and document that dilution is not being substituted for Treatment as prohibited by Section 4.116 (40 CFR 403.6(d)). In addition, the Division Manager will document how the equivalent limits were derived for any changes from concentration to mass limits, or vice versa, and make this information publicly available (40 CFR 403.6(c)(7)).

(g) Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section 4.111 in lieu of the promulgated categorical Standards from which the equivalent limitations were derived

(h) Many Categorical Pretreatment Standards specify one limit for calculating maximum daily limitations for Discharges and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

(i) Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Division Manager within 2 business days after the Industrial User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any Industrial User not notifying the Division Manager of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.112 STATE REQUIREMENTS

Users are required to comply with applicable State Pretreatment Standards and Requirements set out in OAR Chapter 340 and incorporated herein.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.113 "LOCAL LIMITS" / SPECIFIC POLLUTANT LIMITATIONS

(1) No Significant Industrial Users (SIU) shall Discharge into the POTW in excess of limitations specified in its Wastewater Discharge Permit or the "Local Limits" defined below and which are published by the Division Manager, and adopted by City Council through Resolution.

(2) The Division Manager shall revise and publish from time to time Standards for specific restricted substances defined in the Sewer Use Ordinance as Local Limits. The Local Limits will be adopted through Resolution by the City Council, shall be developed in accordance with 40 CFR Section 403.5 and shall implement the objectives of the Sewer Use Ordinance. Local Limits published in accordance with this section will be deemed Pretreatment Standards for the purposes of Section 307 (d) of the Act. At the discretion of the Division Manager, generally applicable or permit

specific limitations may be imposed in addition to or in place of the concentration based limitations. Where an Industrial User is subject to a Categorical Pretreatment Standard and a Local Limit for a given Pollutant, the more stringent Limit or applicable Pretreatment Standard shall apply.

(3) The City may develop Best Management Practices (BMPs) in lieu of numerical limitations and incorporate them into Wastewater Discharge Permits.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.114 CITY'S RIGHT TO REVISION

The City reserves the right to establish, by Ordinance or in Wastewater Discharge Permits, more stringent limitations or requirements for Discharges to the POTW consistent with State and federal requirements and the purposes of this Sewer Use Ordinance.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.115 SPECIAL AGREEMENT

The City reserves the right to enter into special agreements with Users setting out special terms under which the Industrial User may Discharge to the POTW. In no case will a special agreement waive compliance with a Pretreatment Standard. However, the Industrial User may request a net gross adjustment to a Categorical Standard in accordance with Section 4.111. Industrial Users may also request a variance from the Categorical Pretreatment Standard from EPA. Such a request shall be approved only if the User can prove that factors relating to its Discharges are fundamentally different from the factors considered by EPA when establishing that Pretreatment Standard. An Industrial User requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in Section 4.111 (40 CFR 403.13).

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.116 DILUTION

No User shall ever increase the use of process water, or in any way attempt to dilute, its Discharges as a partial or complete substitute for adequate Treatment to achieve compliance with a limitation set for Discharges unless expressly authorized by an applicable Pretreatment Standard, or any other Pollutant-specific limitation developed by the City.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.117 DEADLINE FOR COMPLIANCE WITH CATEGORICAL STANDARDS

(1) Compliance by Existing Sources with Categorical Pretreatment Standards shall be within 3 years of the date the standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR Chapter I, Subchapter N.

(2) New Sources shall install and have in operating condition, and shall start-up all pollution control equipment required to meet applicable Pretreatment Standards before beginning to Discharge. Within the shortest feasible time (not to exceed 90 days), New Sources must meet all applicable Pretreatment Standards.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.118 TENANT RESPONSIBILITY

Any Person who occupies the User's or Domestic User's premises as a tenant under any rental or lease agreement shall be jointly and severally responsible for compliance with the provisions of the Sewer Use Ordinance in the same manner as the User or Domestic User.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.119 FLOW AND INFILTRATION

(1) All property owners and responsible Users identified by the City as contributors to excessive or improper Infiltration or Inflow into the Treatment works shall be advised of their Infiltration or Inflow problems. All such properties shall be provided a 180-day grace period in which to correct the identified Infiltration and Inflow problems, said 180-day grace period to commence from the date of notification. By the end of the 180-day grace period, each property owner shall notify the City that corrective actions have been taken or are in progress, and describe the actions being taken.

(2) A property owner failing to notify the City of corrective actions prior to the end of the 180-day grace period shall be subject to termination of service without further notice,

and water service shall be immediately discontinued and shut off until the Violations shall have been corrected in accordance with federal, State, and City regulations.

(3) In the event any instance of excessive Infiltration or Inflow into the Treatment works of the City shall continue beyond the 180-day grace period, it is hereby declared that such continuing Infiltration or Inflow is a public nuisance, and that the Director shall have the right to abate such a public nuisance, to enter upon any private property within the City for such a purpose, and to assess the cost of such abatement as a lien against the property upon which such Infiltration and/or Inflow occurs. The Director shall assess the cost of such abatement to the property from which Infiltration and Inflow occurs. An administration fee of $350 dollars or 5% of the cost, whichever is greater, shall be assessed by the Director in addition to all cost of abatement. The assessment of all cost shall be levied by the filing of a statement of such costs together with the description of the property or properties to be assessed and the name of the owner(s) thereof with the City Finance Director. The City Finance Director shall enter the assessment as a lien against such property in the Lien Docket of the City. These liens shall be superior and prior to all other liens on the subject properties pursuant to Section 3.146.

(4) No new connections from Inflow sources into the water pollution control facilities shall be permitted without the approval of the Director.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.120 PRETREATMENT FACILITIES

Industrial Users shall provide necessary Wastewater Treatment as required to comply with the Sewer Use Ordinance and shall achieve compliance with all Categorical Pretreatment Standards, Local Limits and the prohibitions set out in Section 4.110 above, within the time limitations specified by the EPA, State or the Division Manager, whichever is more stringent. Any facilities required to pretreat Wastewater to a level acceptable to the City shall be provided, operated, and maintained at the Industrial User's expense. Detailed plans describing such Pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying the facility as necessary to produce an acceptable Discharge to the POTW or System under the provisions of the Sewer Use Ordinance.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.121 ADDITIONAL PRETREATMENT MEASURES

(1) Whenever deemed necessary, the Division Manager may: require Industrial Users to restrict the Industrial User's Discharge during peak flow periods, to relocate and/or consolidate points of Discharges, or to separate Sewage wastestreams from industrial wastestreams; designate that certain Wastewater be Discharged only into specific sewers; and impose such other conditions as may be necessary to protect the POTW and to determine the Industrial User's compliance with the requirements of the Sewer Use Ordinance.

(2) Each Person discharging, into the POTW greater than 100,000 gallons per day or greater than 5% of the average daily flow in the POTW, whichever is lesser, may be required by the Division Manager to install and maintain, on his property and at his expense, a suitable storable and flow control facility to ensure equalization of flow over a 24 hour period. The facility shall have a capacity for at least 50% of the Daily Discharge volume and shall be equipped with alarms and a rate of Discharge controller, the regulation of which shall be directed by the Division Manager. A Wastewater Discharge Permit may be issued solely for flow equalization.

(3) Grease, oil and sand Interceptors shall be provided, when, in the opinion of the Division Manager, they are necessary for the proper handling of Wastewater containing excessive amounts of grease, flammable substances, sand, or other harmful substances; except that such Interceptors shall not be required for Residential Users. All Interceptors shall be of type and capacity approved by the Division Manager and shall be so located to be easily accessible for cleaning and

inspection. Such Interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the owner, at owner's expense.

(4) Industrial Users with the potential to Discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.122 SPILL PREVENTION/SLUG CONTROL PLANS

The Division Manager shall evaluate whether each SIU needs a Spill Prevention/Slug Control Plan (SP/SCP) or other action to control Slug Discharges

(1) General provisions. Each Industrial User shall provide protection from accidental or intentional Discharges of prohibited materials or other substances regulated by the Sewer Use Ordinance, which may interfere with or cause Pass Through to the POTW, by developing and implementing a Spill Prevention/Slug Control Plan (SP/SCP). If required, facilities necessary to prevent the Discharge of prohibited or restricted substances shall be provided and maintained at the User's cost and expense. An SP/SCP showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval before implementation of the plan. Review and approval of such plans and operating procedures by the City shall not relieve the User from the responsibility to modify its facility as necessary to meet the requirements of the Sewer Use Ordinance. The SP/SCP shall be available for inspection at the facility during normal business hours.

(2) Specific provisions. The Director may require any User to develop, submit for approval, and implement such a plan. Alternatively, the Director may develop such a plan for any User.

(3) A Spill Prevention/Slug Control Plan shall address, at a minimum, the following:

(a) Description of Discharge practices, including non-routine batch Discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the POTW of any accidental or Slug Discharge, as required by Section 4.148 of this chapter; and

(d) Procedures to prevent adverse impact from any accidental Spill or Slug Discharge. Such procedures include, but are not limited to: inspection and maintenance of storage areas; handling and transfer of materials; loading and unloading operations; control of plant site runoff; worker training; building of containment structures or equipment; measures for containing toxic organic Pollutants, including solvents; and/or measures and equipment for emergency response; and

(e) Other specific actions as may be required to prevent Slug Discharges.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.123 SEPARATION OF DOMESTIC AND INDUSTRIAL WASTEWATER STREAMS

All Wastewaters from rest rooms, showers, drinking fountains, etc. unless specifically included as part of a Categorical Pretreatment Standard, from a New Source Industrial User shall be kept separate from all Industrial Wastewaters until the Industrial Wastewaters have passed through a required Pretreatment System and the Industrial User's monitoring facility.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.124 HAULED WASTES

(1) Septic tank waste (septage) will not be accepted into the POTW except at a designated receiving structure within the POTW area, and at such times as are established by the Division Manager, provided such wastes do not contain toxic or hazardous Pollutants, and provided such Discharge does not violate any other requirements established by the City. Permits for individual vehicles to use such facilities shall be issued by the Division Manager.

(2) All waste haulers, regardless of the origin of the Hauled Wastes, shall be considered "Industrial Users" for the purposes of the Sewer Use Ordinance and required to apply for and obtain a waste hauler permit prior to hauling or discharging at a designated location.

(3) The Discharge of domestic septage wastes

from commercial or industrial sites requires prior approval of the Division Manager. The Division Manager shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the Treatment Plant operation. Discharges of "Industrial Wastewaters" are strictly prohibited.

(4) Fees for the Discharge of septage will be established as part of the User fee system as authorized in Section 4.184.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.125 GREASE INTERCEPTORS

(1) The City may inspect grease Interceptors (i.e., traps, oil/water separators) to insure proper installation and maintenance. Users may be required to reimburse the City for cleaning and additional maintenance of public sewer mains due to Discharge of grease caused by noncompliance with these rules and regulations.

(2) In the event the City, during routine line maintenance, discovers an accumulation of grease in a public line sufficient to restrict the normal flow of waste, upstream Users shall be inspected. When the City determines which User or Users were responsible for the grease or oil Discharges, the User(s) may be required to cease Discharge of the prohibited waste, install an Interceptor, maintain the Interceptor, and may be charged for the cost of cleaning the line.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.126 WASTEWATER SURVEY

When requested by the Division Manager all Users must submit information on the nature and characteristics of their Wastewater by completing a Wastewater survey prior to commencing or continuing their Discharge. The Division Manager is authorized to prepare a form for this purpose and may periodically require Industrial Users to update the survey. Failure to complete this survey shall be considered a Violation of the Sewer Use Ordinance and subjects the User to the sanctions set out in Section 4.161(f) through 4.177.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.127 WASTEWATER DISCHARGE PERMIT REQUIREMENT

(1) It shall be unlawful for Significant Industrial Users to Discharge Wastewater into the POTW without first making application for and obtaining a Wastewater Discharge permit ("Wastewater Discharge Permit") from the Division Manager as required under this Sewer Use Ordinance.

(2) The Division Manager may require other non-domestic Users, including liquid waste haulers, to obtain Wastewater Discharge Permits as necessary to carry out the purposes of the Sewer Use Ordinance.

(3) Any Violation of the terms and conditions of a Wastewater Discharge Permit shall be deemed a Violation of the Sewer Use Ordinance and subjects the User or Industrial User to the sanctions set out in Sections 4.161(f) through 4.175. Obtaining a Wastewater Discharge Permit under the Sewer Use Ordinance does not relieve a permittee of its obligation to obtain other permits required by Federal, State or local law.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.128 PERMITTING EXISTING CONNECTIONS

Any Significant Industrial User, without a current industrial Wastewater Discharge Permit, which Discharges industrial waste into the POTW prior to the effective date of the Sewer Use Ordinance and who wishes to continue such Discharges in the future, shall, within 90 days after said date, apply to the City for a Wastewater Discharge Permit in accordance with Section 4.131 below, and shall not cause or allow Discharges to the POTW to continue after 180 days of the effective date of the Sewer Use Ordinance except in accordance with a permit issued by the Division Manager.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.129 PERMITTING NEW CONNECTIONS

Any User proposing to begin or recommence discharging industrial wastes into the POTW must obtain a Wastewater Discharge Permit (individual or general) prior to beginning or recommencing such Discharge. An application for this permit, in accordance with Section 4.131, must be filed at least 90 days prior to the

anticipated startup date.
[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.130 PERMITTING EXTRA-JURISDICTIONAL INDUSTRIAL USERS

Any existing Significant Industrial User located beyond the City limits shall submit a permit application, in accordance with Section 4.131 below, within 90 days of the effective date of the Sewer Use Ordinance. New Significant Industrial Users located beyond the City limits shall submit such applications to the Division Manager 90 days prior to any proposed Discharge into the POTW. Upon review of such application, the Division Manager may enter into a contract with the Industrial User which requires the Industrial User to subject itself to and abide by this Sewer Use Ordinance, including all permitting, compliance monitoring, reporting, and enforcement provisions herein. Alternately, the Division Manager may enter into an agreement with the neighboring jurisdiction in which the Significant Industrial User is located to provide for the implementation and enforcement of Pretreatment Requirements against said User.
[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.131 WASTEWATER DISCHARGE PERMIT APPLICATION CONTENTS

(1) All Users required to obtain a Wastewater Discharge Permit must submit a permit application. Users that are eligible may request a general permit under Section 4.136. Categorical Users submitting the following information must have also complied with 40 CFR 403.12(b). The Division Manager may require Users to submit all or some of the following information as part of a permit application:
   (a) Identifying Information.
      (i) The name and address of the facility, including the name of the operator and owner.
      (ii) Contact information, description of activities, facilities, and plant production processes on the premises;
   (b) Environmental Permits. A list of any environmental control permits held by or for the facility.
   (c) Description of Operations.
      (i) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of Discharge to the POTW from the regulated processes.
      (ii) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, Discharged to the POTW;
      (iii) Number and type of employees and actual or proposed hours of operation,;
      (iv) Type and amount of raw materials processed (average and maximum per day);
      (v) 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;
   (d) Time and duration of Discharges;
   (e) The location for monitoring all Wastewaters covered by the Wastewater Discharge Permit;
   (f) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 4.111(1)(b).
   (g) Measurement of Pollutants.
      (i) The Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
      (ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Division Manager, of regulated pollutants in the Discharge from each regulated process.
      (iii) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.

(iv) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 4.151. Where the Standard requires compliance with BMP or pollution prevention alternative, the User shall submit documentation as required by the Division Manager or the applicable Standards to determine compliance with the Standard.

(v) Sampling must be performed in accordance with procedures set out in Section 4.150 and 4.151.

(h) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a Pollutant neither present nor expected to be present in the Discharge based on Section 4.146(2) [40 CFR 403.12(e)(2)].

(i) Any request to be covered by a general permit based on Section 4.136.

(j) Any other information as may be deemed necessary by the Division Manager to evaluate the permit application.

(k) Compliance Schedule. If additional Pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the Industrial User will provide such additional Pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 4.144.

(l) Compliance Certification. CIUs must also submit a statement, reviewed by the User's Authorized Representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional O&M and/or additional pretreatment is required to meet the Pretreatment Standards.

(2) Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.132 APPLICATION SIGNATORIES AND CERTIFICATION

(1) All Wastewater Discharge Permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Subsection (4) below.

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

(3) A facility determined to be a Non-Significant Categorical Industrial User by the Division Manager pursuant to 4.102 must annually submit the signed certification statement in Section 4.132(5).

(4) Certification of Permit Applications, User Reports and Initial Monitoring Waiver. The following certification statement is required to be signed and submitted by: Users submitting permit applications in accordance with Section 4.131; Users submitting baseline monitoring reports under Section 4.143 [40 CFR 403.12 (l)]; Users submitting reports on compliance with the Categorical Pretreatment Standard deadlines under Section 4.145 [40 CFR 403.12(d)]; Users submitting periodic compliance reports required by Section 4.146 [40 CFR 403.12(e) and (h)]; and Users submitting an initial request to forego sampling of a Pollutant on the basis of Section 4.146(2) [40 CFR 403.12(e)(2)(iii)]. The following certification statement must be signed by an Authorized Representative as defined in Section 4.102:

"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."

(5) Annual Certification for Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User by the Division Manager pursuant to Section 4.102 and 4.132(3) [40 CFR 403.3(v)(2)] must annually submit the following certification statement signed in accordance with the signatory requirements in Section 4.102 [40 CFR 403.120(l)]. This certification must accompany an alternative report required by the Division Manager:

"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 Section 4.102 [See 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.

"(d) This facility never discharged concentrated untreated waste.

"This compliance certification is based on the following information:

"_____"

(6) Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 4.146(3) must certify on each report with the following statement that there has been no increase in the Pollutant in its Wastewater stream due to activities of the User. [40 CFR 403.12(e)(2)(v)]

"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 4.146."

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.133 WASTEWATER DISCHARGE PERMIT DECISIONS

(1) The Division Manager will evaluate the data furnished by the Industrial User pursuant to Section 4.131 and may require additional information. Within 60 days of receipt of a complete permit application deemed complete by the Division Manager in writing, the Division Manager will determine whether or not to issue a Wastewater Discharge Permit. If no determination is made within this time period, the application will be deemed denied, except as provided in Section 4.141 relating to reissuance of discharge permits.

(2) If any waters or wastes are Discharged, or are proposed to be Discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 4.110, and which, in the judgment of the Division Manager, may have a deleterious effect upon the POTW, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Division Manager may take any of the following actions:

(a) Reject the wastes;

(b) Require Pretreatment to an acceptable condition for Discharge to the public sewers;

(c) Require control over the quantities and rates of Discharge; and/or

(d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.134 WASTEWATER DISCHARGE PERMIT DURATION

Wastewater Discharge Permits shall be issued for a specific time period, not to exceed 5 years. The permit may be issued for a period less than

5 years, at the discretion of the Division Manager. Each permit shall indicate a specific date upon which it will expire.
[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.135 WASTEWATER DISCHARGE PERMIT CONTENTS

(1) Wastewater Discharge Permits shall include such conditions as are reasonably deemed necessary by the Division Manager to prevent Pass Through or Interference, protect the quality of the water body receiving the Treatment Plant effluent, protect worker health and safety and facilities, and to implement the objectives of the Sewer Use Ordinance.

(2) Individual and general Wastewater Discharge Permits must contain:

(a) The issuance date, expiration date and effective date of the Wastewater Discharge Permit;

(b) A statement that the Wastewater Discharge Permit is nontransferable without prior notification to the City in accordance with Section 4.139 of this Ordinance, and provisions for furnishing the new owner or operator with a copy of the existing Wastewater Discharge Permit;

(c) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;

(d) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of Pollutants (or Best Management Practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.

(e) The process for seeking a waiver from monitoring for a Pollutant neither present nor expected to be present in the Discharge in accordance with Section 4.146(3).

(f) 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.

(g) Requirements to control Slug Discharge, if determined by the Division Manager to be necessary.

(h) Any grant of the monitoring waiver by the Division Manager Section 4.146(3) must be included as a condition in the User's Wastewater Discharge Permit.

(3) Wastewater Discharge Permits may contain, but need not be limited to, the following conditions:

(a) Limits on the average and/or maximum rate of Discharge, time of Discharge, and/or requirements for flow regulation and equalization;

(b) Requirements for the installation of Pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of Pollutants into the Treatment works;

(c) Requirements for the development and implementation of Spill Prevention/Slug Control Plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine Discharges;

(d) Requirements to develop and implement waste minimization plans to reduce the amount of Pollutants Discharged to the POTW;

(e) The unit charge or schedule of User charges and fees for the management of the Wastewater Discharged to the POTW;

(f) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(g) A statement that compliance with the Wastewater Discharge Permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual Wastewater Discharge Permit;

(h) Other conditions as deemed appropriate by the Division Manager to ensure compliance with this Ordinance, and State and Federal laws, rules, and regulations.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.136 WASTEWATER DISCHARGE PERMITTING: GENERAL PERMITS

(1) At the discretion of the Division Manager, the Division Manager may use general permits to control SIU Discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:
  (a) Involve the same or substantially similar types of operations;
  (b) Discharge the same types of wastes;
  (c) Require the same Effluent limitations;
  (d) Require the same or similar monitoring; and
  (e) In the opinion of the Division Manager, are more appropriately controlled under a general permit than under individual Wastewater Discharge Permit(s).

(2) To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with Section 4.146(3) for a monitoring waiver for a Pollutant neither present nor expected to be present in the Discharge, and any other information the POTW deems appropriate. A monitoring waiver for a Pollutant neither present nor expected to be present in the Discharge is not effective in the general permit until after the Division Manager has provided written notice to the SIU that such a waiver request has been granted in accordance with Section 4.146(3).

(3) The Division Manager will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in this section and applicable State regulations, and a copy of the User's written request for coverage for 3 years after the expiration of the general permit.

(4) The Division Manager may not control an SIU through a general permit where the facility is subject to production-based Categorical Pretreatment Standards or Categorical Pretreatment Standards expressed as mass of Discharges per day or for IUs whose limits are based on the Combined Wastestream Formula (Section 4.111(1)(b)).

4.137 WASTEWATER DISCHARGE PERMIT APPEALS

(1) Any Person including the Industrial User may petition the Division Manager to reconsider the terms of the permit within 10 days of the issuance of the final Wastewater Discharge Permit.

(2) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(3) In its petition, the appealing party must indicate the Wastewater Discharge Permit provisions objected to, the reasons for this objection, and the alternative conditions, if any, it seeks to place in the permit.

(4) The effectiveness of the Wastewater Discharge Permit shall not be stayed pending the appeal.

(5) If the Division Manager fails to act within 15 days, the request for reconsideration shall be automatically advanced to the City Manager. If the City Manager fails to act within 15 days after being notified in writing of the appeal, the reconsideration shall be deemed denied.

(6) Aggrieved parties seeking judicial review of the final administrative permit decision must do so by petitioning for a Writ of Review in Klamath County Circuit Court, pursuant to ORS Chapter 34, within 60 days of the date the administrative decision is final.

4.138 WASTEWATER DISCHARGE PERMIT MODIFICATIONS

(1) The Division Manager may modify the 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.
  (b) To address significant alterations or additions to the Industrial User's operation, processes, or Wastewater volume or character since the time of permit issuance.
  (c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized Discharge.
  (d) Information indicating that the permitted Discharge poses a threat to the City's POTW, City personnel, or the receiving waters.
  (e) Violation of any terms or conditions of the

Wastewater Discharge Permit.

(f) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting.

(g) Revisions of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR 403.13.

(h) To correct typographical or other errors in the permit.

(i) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

(2) The filing of a request by the permittee for a permit modification does not stay any permit condition.

(3) For any discretionary modification to a Wastewater Discharge Permit that will substantially impact an Industrial User's operations, the Division Manager will send advanced, written notice of the proposed change to the Industrial User. The notice will be mailed or delivered to the address on the permit and allow the permittee 15 days from the date of mailing or delivery to provide comment on the discretionary modification prior to the time the modification takes effect.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.139 WASTEWATER DISCHARGE PERMIT TRANSFER

(1) Wastewater Discharge Permits may be reassigned or transferred to a new owner and/or operator with prior approval of the Division Manager if the permittee gives at least 30 days advance notice to the Division Manager. The notice must include provision for furnishing the new owner or operator with a copy of the existing permit and a written certification by the new owner or operator which:

(a) States that the new owner has no immediate intent to change the facility's operations and processes.

(b) Identifies the specific date on which the transfer is to occur.

(c) Acknowledges full responsibility for complying with the existing permit.

(2) Failure to provide the notice of a transfer as required in subsection (1) renders the Wastewater Discharge Permit void as of the date the facility was transferred or reassigned.

[Added by Ordinance No. 09-04, enacted April 20, 2009.]

4.140 WASTEWATER DISCHARGE PERMIT REVOCATION

(1) The Division Manager may revoke a Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

(a) Failure to notify the City of significant changes to the Wastewater prior to the changed Discharge;

(b) Falsifying self-monitoring reports and certification statements;

(c) Tampering with monitoring equipment;

(d) Refusing to allow the City timely access to the facility premises and records;

(e) Failure to meet effluent limitations;

(f) Failure to pay administrative penalties and/or enforcement fines and penalties;

(g) Failure to pay sewer charges;

(h) Failure to meet compliance schedules;

(i) Failure to complete a Wastewater survey;

(j) Failure to provide advance notice of the transfer of a permitted facility;

(k) Violations of any Pretreatment Standard or Requirement or any terms of the permit or the Sewer Use Ordinance in accordance with the procedures identified in Section 4.161;

(l) Failure to provide prior notification to the Division Manager of changed conditions pursuant to Section 4.147;

(m) Misrepresentation of, or failure to fully disclose, all relevant facts in the Wastewater Discharge Permit application;

(n) Failure to complete a Wastewater Discharge Permit application.

(2) Wastewater Discharge Permit shall be void upon cessation of operations, or transfer of business ownership. All Wastewater Discharge Permits issued to a particular User are void upon the issuance of a new Wastewater Discharge Permit to that User.

(3) In a non-emergency situation in which the Division Manager intends to revoke a Wastewater Discharge Permit, the Division Manager will provide the permittee notice of the planned revocation and a 10 day period to respond to the planned revocation before the permit is revoked.

4.141 WASTEWATER DISCHARGE PERMIT REISSUANCE

A Significant Industrial User shall apply for

permit reissuance by submitting a complete permit application in accordance with Section 4.131 a minimum of 90 days prior to the expiration of the User's existing permit. A User whose existing discharge permit has expired and who has re-submitted its re-issuance application in the time period specified herein shall be deemed to have an effective wastewater discharge permit until the City issues or denies the new, reissued wastewater permit.

4.142 REGULATION OF WASTEWATER RECEIVED FROM OTHER JURISDICTIONS

If another municipality, or User(s) located within another municipality or jurisdiction, contribute(s) Wastewater to the POTW, the Division Manager shall enter into an intermunicipal or interjurisdictional agreement with the contributing municipality or jurisdiction, or enter into a contract with the User(s), in accordance with the City's Pretreatment Requirement procedures.

4.143 BASELINE MONITORING REPORTS

CIUs that have complied with Section 4.131 will also have complied with the Baseline Monitoring Report requirements of 40 CFR 403.12(b) if the CIU has timely submitted a report to the Division Manager which contains the information listed in Section 4.131. For the purpose of this provision, timely submission of the report means that the report has been submitted within 180 days after the effective date of a categorical Pretreatment Standard or after a final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later. For New Sources that are CIUs and sources that become CIUs subsequent to the promulgation of an applicable categorical Pretreatment Standard, the report must be submitted to the Division Manager at least 90 days prior to commencement of their discharge. At this time, a New Source must also report to the Division Manager (a) the method of pretreatment it intends to use to meet applicable categorical Standards; and (b) an estimate of the anticipated flow and quantity of pollutants to be discharged.

4.144 COMPLIANCE SCHEDULE REPORTS

The following conditions shall apply to the compliance schedule required by Section 4.131(1)(k) of the Sewer Use Ordinance:

(1) 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, commencing and completing construction, and beginning and conducting routine operation.

(2) No increment referred to above shall exceed 9 months.

(3) The User shall submit a progress report to the Division Manager no later than 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.

(4) In no event shall more than 9 months lapse between such progress reports to the Division Manager.

4.145 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE

Within 90 days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a New Source, following commencement of the introduction of Wastewater into the municipal (POTW) Wastewater System, any User subject to such Pretreatment Standards and Requirements shall submit to the Division Manager a report containing the information described in Section 4.131(1)(f) and (g) and 4.143. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 4.111(1)(e)(iv) [40 CFR 403.6(c)], this report shall contain a reasonable measure of the User's long term production rate. For all other Industrial Users subject to Categorical Pretreatment Standards expressed in terms of allowable Pollutant Discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4.132.

4.146 PERIODIC COMPLIANCE REPORTS

(1) Any Significant Industrial Users subject to a Pretreatment Standard shall, at a frequency determined by the Division Manager, but in no case less than twice per year (June and Dec. unless otherwise specified), submit a report indicating the nature and concentration of Pollutants in the Discharge which are limited to such Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 4.132. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the User shall submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User.

(2) All Wastewater samples must be representative of Industrial User's Discharge. The failure of an Industrial User to keep its monitoring facility in good working order shall not be grounds for the Industrial User to claim that sample results are unrepresentative of its Discharge.

(a) If a User subject to the reporting requirement in this Section monitors any regulated Pollutant at the appropriate sampling location more frequently than required by the Division Manager, using the procedures prescribed in Section 4.150 of this Sewer Use Ordinance, the results of this monitoring shall be included in the report.

(3) The City may authorize the Industrial User subject to a Categorical Pretreatment Standard to forego sampling of a Pollutant regulated by a Categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the Pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the Pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

(a) The waiver may be authorized where a Pollutant is determined to be present solely due to sanitary Wastewater Discharged from the facility provided that the sanitary Wastewater is not regulated by an applicable Categorical Standard and otherwise includes no process Wastewater;

(b) The monitoring waiver is valid only for the duration of the effective period of the individual Wastewater Discharge Permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual Wastewater Discharge Permit. See Section 4.131(1)(h).

(c) In making a demonstration that a Pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process Wastewater prior to any Treatment present at the facility that is representative of all Wastewater from all processes.

(d) The request for a monitoring waiver must be signed in accordance with Section 4.102, and include the certification statement in Section 4.132 [(40 CFR 403.6(a)(2)(ii))].

(e) Non-detectable sample results may be used only as a demonstration that a Pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that Pollutant was used in the analysis.

(f) Any grant of the monitoring waiver by the Division Manager must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Division Manager for 3 years after expiration of the waiver.

(g) Upon approval of the monitoring waiver and revision of the User's permit by the Division Manager, the Industrial User must certify on each report with the statement in Section 4.132(6), that there has been no increase in the Pollutant in its wastestream due to activities of the Industrial User.

(h) In the event that a waived Pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately: Comply with the monitoring

requirements of Section 4.146(1), or other more frequent monitoring requirements imposed by the Division Manager, and notify the Division Manager.

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

(4) In the event an Industrial User's monitoring results indicate a Violation has occurred, the Industrial User: shall immediately (within 24 hours of becoming aware of the Violation) notify the Division Manager; shall repeat the sampling and analysis in compliance with the sampling protocols required by the Sewer Use Ordinance, and other specific instructions if provided by the Division Manager, until it is evident that the Discharge is in compliance; and shall submit the results of the repeat sampling and analysis to the City within 30 days after becoming aware of the Violation. If the City has performed sampling on the User and found that a Violation exists, it may notify the User of the Violation and the User must perform repeat sampling and analysis until it is evident that the Discharge is in compliance and shall submit the results of the repeat sampling and analysis to the City.

(5) For any information faxed or emailed to the City, the original shall be retained on the permitee's premises for a minimum of 3 years, or the original may be mailed to the City as a follow-up to the fax or email. Information sent to the City via email must include applicable signed signature certifications in Portable Document Format or equivalent electronic format.

4.147 REPORT OF CHANGED CONDITIONS

(1) Each Industrial User shall notify the Division Manager of any changes to the Industrial User's operations or System which might substantially alter the nature, quality or volume of its Wastewater at least 30 days before the change. Notification of any changes in the listed or characteristic hazardous wastes for which the User has submitted initial notification under 40 CFR 403.12 (p) must also be reported.

(2) The Division Manager may require the Industrial User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a Wastewater Discharge Permit application under Section 4.131, if necessary.

(3) The Division Manager may issue a Wastewater Discharge Permit under Section 4.133 or modify an existing waste water permit under Section 4.138.

(4) No Industrial User shall implement the planned changed condition(s) until and unless the Division Manager has responded to the Industrial User's notice.

4.148 REPORTS OF POTENTIAL PROBLEMS

(1) In the case of any Discharge, included, but not limited to, a Slug Discharge, accidental Spill or other Discharge which may cause potential problems for the POTW, it is the responsibility of the User to immediately telephone and notify the City (POTW Division Manager) after becoming aware of the incident. This notification shall include the location of Discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

(2) Within 5 days following a Slug Discharge or accidental Discharge, the User shall, unless waived by the Division Manager, 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, civil penalties, or other liability which may be imposed by the Sewer Use Ordinance

(3) Failure to notify the City immediately after becoming aware of the potential problem Discharges shall be deemed a separate Violation of the Sewer Use Ordinance.

(4) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a Discharge described in Subsection (1), above. Employers shall ensure that all employees who may cause or suffer such a Discharge to occur are advised of the emergency notification procedure.

(5) Significant Industrial Users are required to notify the Division Manager immediately of any changes at its facility affecting the potential for a Slug Discharge.

4.149 REPORTS FROM UNPERMITTED USERS

All Industrial Users not subject to Categorical Pretreatment Standards and not required to obtain a Wastewater Discharge Permit shall provide appropriate reports to the City as the Division Manager may require.

4.150 SAMPLE COLLECTION

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

(2) Except as indicated in Subsections (3) and (4), the User must collect Wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or Grab Sampling is authorized by the Division Manager. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the Discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple Grab Samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, Grab Samples may be required to show compliance with Instantaneous Limits.

(3) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using Grab Sample techniques.

(4) For sampling required in support of baseline monitoring and 90-day compliance reports required in Sections 4.143 and 4.145 [40 CFR 403.12(b) and (d)], a minimum of 4 Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist. For facilities for which historical sampling data are available, the Division Manager may authorize a lower minimum. For the reports required by Section 4.146 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of Grab Samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

4.151 ANALYTICAL REQUIREMENTS

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

4.152 EXPENSES OF MONITORING

The Director may recover the City's expenses incurred in collecting and analyzing samples of the Industrial User's Discharge by adding the City's expenses to the Industrial User's sewer charges.

4.153 REPORT TRANSMITTALS

Written reports required by the Sewer Use Ordinance shall be deemed to have been transmitted at the time of deposit, postage prepaid, into a mail facility serviced by the United States Postal Service or by personal delivery.

4.154 RECORD KEEPING

Users subject to the reporting requirements of the Sewer Use Ordinance shall retain, and make available for inspection and copying, all records

of information obtained pursuant to any monitoring activities required by this Ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Section 4.113(3). Records shall include the date, exact place, method, and time of sampling, and the name of the Person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least 3 years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the Division Manager.

4.155 NOTIFICATION OF SIGNIFICANT PRODUCTION CHANGE

An Industrial User operating under a Wastewater Discharge Permit with a control mechanism that incorporates equivalent mass or concentration limits shall provide advanced notice to the Division Manager within 2 business days after the User has a reasonable basis to know that its production level will significantly change within the next calendar month. Any User that does not notify the Division Manager of such anticipated change shall be required to meet the mass or concentration limits in its permit that were based on the original estimate of the User's long term average production rate.

4.156 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE

(1) Any User who commences the Discharge of hazardous waste shall notify the City, the EPA Regional Waste Management Division Director, of any Discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of Discharge (continuous, batch, or other). If the User Discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes; an estimation of the mass and concentration of such constituents in the wastestream Discharged during that calendar month; and an estimation of the mass of constituents in the wastestream expected to be Discharged during the following 12 months. All notifications must take place no later than 180 days after the Discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste Discharged. However, notifications of changed conditions must be submitted under Section 4.146. The notification requirement in this Section does not apply to Pollutants already reported by Industrial Users subject to Categorical Pretreatment Standards under the self-monitoring requirements of Sections 4.143, 4.145 and 4.146.

(2) Dischargers are exempt from the requirements of subsection (1) during a calendar month in which they Discharge no more than 15 kilograms of hazardous waste, unless the wastes are acute hazardous waste as specified in 40 CFR 261.30 (d) and 261.33 (e). Discharge of more than 15 kilograms of non-acute hazardous waste in a calendar month, or of any quantity of acute hazardous waste as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User Discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under Section 3001 of the RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Director, the EPA Regional Waste Management Division Director, and DEQ Solid and Hazardous Waste Division Director, of the Discharge of such substance within 90 days of the effective date of such regulations.

(4) In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(5) This provision does not create a right to

Discharge any substance not otherwise permitted to be Discharged by the Sewer Use Ordinance, a permit issued, or any applicable Federal or State law.

4.157 INSPECTION AND SAMPLING

The City shall have the right to enter the facilities of any Industrial User to enforce the provisions of the Sewer Use Ordinance or any Wastewater Discharge Permits or orders issued. Industrial Users shall allow the Division Manager or his or her representatives ready access to all parts of their premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1) Where a User has security measures in force, which require proper identification and clearance before entry into their premises, the Industrial User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the City, State, and EPA will be permitted to enter, without delay, for the purposes of performing their official duties.
(2) The City, State, and EPA shall have the right to set up or require installation of, on the Industrial User's property, such devices as are necessary to conduct sampling, and/or metering of the User's operations.
(3) The City may require the Industrial User to install monitoring equipment, as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the Industrial User at the Industrial User's expense. All devices used to measure Wastewater flow and quality shall be calibrated periodically or otherwise maintained in accordance with equipment manufacturers' recommendations to ensure their accuracy.
(4) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the Industrial User at the written or oral request of the Division Manager and shall not be replaced. The costs of clearing such access shall be borne by the Industrial User.
(5) Unreasonable delays in allowing City personnel access to the Industrial User's premises shall be a Violation of the Sewer Use Ordinance.

4.158 SEARCH WARRANTS

If the Division Manager has been refused access to a building, structure or property or any part thereof, and if the Division Manager has probable cause to believe that there may be a Violation to the Sewer Use Ordinance, or that there is a need to inspect as part of a routine inspection program of the City designed to protect the overall public health, safety and welfare of the community, the Division Manager shall contact the City Attorney who may then apply for an administrative search warrant from a court of competent jurisdiction. Such warrant shall be served at reasonable hours by the Division Manager.

4.159 CONFIDENTIAL INFORMATION

(1) Information and data on an Industrial User obtained from reports, questionnaires, permit applications, permits, and monitoring programs, and from City inspections and sampling activities shall be available to the public without restriction unless the Industrial User specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State laws.
(2) Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.
(3) When requested and demonstrated by the Industrial User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the pubic but shall be made available immediately upon request to governmental agencies for uses related to the Sewer Use Ordinance, the National Pollutant Discharge Elimination System (NPDES) program, and in enforcement proceedings involving the Person furnishing the report.

4.160 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The City shall publish annually, in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW a list of the Industrial

Users which, during the previous 12 months, were in significant noncompliance with applicable Pretreatment Standards and Requirements. A Significant Industrial User will have been in significant noncompliance if its Violation meets one or more of the following criteria and an Industrial User may be determined to be in Significant Non-Compliance (SNC) if it has shown to have violated Section 4.160 (3), (4) or (8):

(1) Chronic Violations of Wastewater Discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same Pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

(2) Technical Review Criteria (TRC) Violations, defined here as those in which 33 percent or more of all of the measurements taken for the same Pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC'1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other Pollutants except pH);

(3) Any other Violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (Daily Maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other Discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);

(4) Any Discharge of a Pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a Discharge;

(5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance;

(8) Any other Violation or group of Violations, which may include a Violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local Pretreatment program.

4.161 VIOLATION PROCESS

(1) Whenever the Division Manager determines that a Violation of the Sewer Use Ordinance, any permit issued, or any order issued by the City pursuant to the Sewer Use Ordinance, has occurred or is taking place, it may initiate enforcement action as provided in Sections 4.161 through 4.174. In addition, any enforcement action or remedy provided in State or Federal law may be employed. If the Division Manager believes a Violation has occurred or is occurring, a representative of the City shall make a reasonable effort to notify the User/Domestic User of the Violation. All Violations including the first Violation shall receive a written Notice of Violation, and may also incur a monetary penalty.

(2) All written Notices of Violations shall describe the Violation, any potential penalty (monetary and/or incarceration) and any additional Pretreatment requirements. The written notice may further require that a response to the Violation be submitted to the City within a 10 day time period. A Notice of Violation shall be served at the address of the local facility of User/Domestic User; or the corporate office of User/Domestic User. If the User holds a Wastewater Discharge Permit, the Notice of Violation will be served at the address on the permit. The Notice of Violation shall be deemed delivered: at the time of deposit, postage prepaid, into a mail facility serviced by the United States Postal Service; or at the time sent if transmitted by means of an electronic facsimile device if an electronic receipt is printed and retained; or at the time of personal delivery.

(3) If a written Notice of Violation requires submittal of a response, the response shall include an explanation of the cause of the Violation, a plan for its satisfactory correction

and prevention of future such Violations, specific corrective or preventive actions, and such other information reasonably required as identified in the Notice. Submission of this plan in no way relieves the User/Domestic User of liability for any Violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Division Manager to initiate emergency action or other enforcement action prior to issuing a Notice of Violation.

(4) Users/Domestic Users that have received an enforcement action decision under Sections 4.161 through 4.168 and 4.170 may request a review of that decision by the City Manager. Requests for review shall be submitted in writing to the City Manager within 15 days of the date of the enforcement action decision. Once a User/Domestic User has exhausted this administrative procedure for review of an enforcement action decision, the User/Domestic User may appeal the decision of the City Manager by filing a written notice of appeal in compliance with the City's Uniform Appeal and Hearing Procedures established under Section 1.025.

4.162 VIOLATION OF PERMIT PARAMETERS

(1) For the Maximum Daily Allowable concentration, if the concentration of any single sample (whether grab or a sample within a series) exceed the limitations, a Violation will have occurred.

(2) For the Monthly Average Allowable concentration, if the average of all sample(s) (grab or composite) taken exceeds the limitation, a Violation will have occurred. One sample collected may constitute a monthly average Violation.

4.163 ADDITIONAL VIOLATION PARAMETERS

A Violation of the Sewer Use Ordinance shall also be deemed to occur

(1) For noncompliance with any special reporting requirements established by permit, written request of the City consistent with the requirements of this Sewer Use Ordinance, or as specified by general federal Pretreatment Standards (40 CFR 403.12).

(2) When Pollutants prohibited by the Sewer Use Ordinance are Discharged into the POTW.

(3) For failure to apply for and obtain a Wastewater Discharge Permit prior to Discharge of Industrial Wastewater into the POTW.

4.164 ADMINISTRATIVE ORDERS AND CONSENT ORDERS

(1) The Division Manager may issue to any User or Domestic User an Administrative Order to require the User/Domestic User to comply with any requirement under the Sewer Use Ordinance, Wastewater Discharge Permits, or order issued or any other Pretreatment Requirement under Federal or State law. Administrative Orders may also contain requirements reasonably necessary and appropriate to address a non-compliance of User/Domestic User. Administrative Orders shall be judicially enforceable.

(2) The Division Manager may enter into Consent Orders, assurance of voluntary compliance, or other similar documents establishing an agreement with a User/Domestic User not in compliance with any permit parameter or provision of the Sewer Use Ordinance. Such documents will include specific action to be taken by the User/Domestic User to correct the noncompliance within a time period also specified by the document. Consent Orders shall have the same force and effect as administrative orders and upon issuance, such orders shall be judicially enforceable.

4.165 SHOW CAUSE HEARING

(1) The Division Manager may order any User or Domestic User which causes or contributes to Violation(s) of the Sewer Use Ordinance, Wastewater Discharge Permits or order issued or any other Pretreatment Requirement, to appear before the Division Manager and show cause why a proposed enforcement action should not be taken. Notice shall be served on the User/Domestic User specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and an order that the User/Domestic User show cause why this proposed enforcement action should not be taken.

(2) The notice of the hearing shall be served personally or by registered mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on

any Authorized Representative of the User/Domestic User. Whether or not the User/Domestic User appears at the hearing, the Division Manager may pursue enforcement action following the hearing date.

4.166 COMPLIANCE ORDERS

(1) When the Division Manager finds that a User or Domestic User has violated or continues to violate the Sewer Use Ordinance, permits or orders issued, or any other Pretreatment Requirement, an order may be issued to the User/Domestic User directing that, following a specific time period, sewer service shall be discontinued unless adequate Treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of Pollutants Discharged to the sewer.

(2) In addition to such Compliance Orders, the Division Manager may require additional self-monitoring for at least 90 days after consistent compliance has been achieved, after which time the self-monitoring conditions in the Wastewater Discharge Permit shall control.

4.167 CEASE AND DESIST ORDERS

When the Division Manager finds that a User or Domestic User has violated or continued to violate the Sewer Use Ordinance, any permit or order issued, or any other Pretreatment Requirement, the Division Manager may issue an order to the User/Domestic User directing it to cease and desist all such Violations and directing the User/Domestic User to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened Violation, including halting operations and/or terminating the Discharge.

4.168 ADMINISTRATIVE FINES

(1) When the Division Manager finds that a User or Domestic User has violated, or continues to violate, any provision of the Sewer Use Ordinance, a Wastewater Discharge Permit or order issued, or any other Pretreatment Standard or Wastewater Discharge Permit requirement, the Division Manager may fine such User/Domestic User in an amount not to exceed $1,000. Such fines shall be assessed on a per Violation, per day basis. In the case of monthly or long term average Discharge limits, fines shall be assessed for each day during the period of Violation.

(2) Unpaid charges, fines and penalties shall, after 30 calendar days, be assessed an additional penalty of 20% of the unpaid balance, and interest shall accrue thereafter at a rate of 2% per month, compounded monthly. Using the procedures set forth in Section 4.118, a lien against the User's/Domestic User's property will be sought for unpaid charges, fines and penalties. The Division Manager may add the cost of preparing administrative enforcement actions, such as notices and orders, to the fine(s) and lien(s).

(3) Users/Domestic Users desiring to dispute such fines must file a written request for the Division Manager to reconsider the fine along with full payment of the fine amount within 15 days of being notified of the fine. Where a request has merit, the Division Manager may convene a hearing on the matter. In the event the User's/Domestic User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User/Domestic User. The Division Manager shall also have the authority at the conclusion of the hearing to reduce the fine, penalty and/or interest based the User's/Domestic User's explanation(s).

(4) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other enforcement action against the User/Domestic User.

4.169 EMERGENCY SUSPENSIONS

(1) The Division Manager may immediately suspend a User's or Domestic User's Discharge or Sewage service, and an Industrial User's Wastewater Discharge Permit, after notice to the User/Domestic User, whenever such suspension is necessary in order to stop an actual or threatened Discharge or Sewage disposal which reasonably appears to present or cause an imminent or substantial

endangerment to the health or welfare of Persons. The Division Manager may also immediately suspend a User's Discharge, a Domestic User's Sewage disposal into the POTW or Sewer, and/or an Industrial User's Wastewater Discharge Permit, after notice and opportunity to respond, if that Discharge or disposal threatens to interfere with the operation of the POTW, or presents or may present an endangerment to the environment.

(2) Any Industrial User notified of a suspension of its Wastewater Discharge Permit shall immediately stop or eliminate its contribution. In the event of an Industrial User's failure to immediately comply voluntarily with the suspension order, the Division Manager shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its Receiving Stream, or endangerment to any Persons. The Division Manager shall allow the Industrial User to recommence its Discharge when the Industrial User has demonstrated to the satisfaction of the Division Manager that the period of endangerment has passed, unless the termination proceedings set forth in Section 4.170 are initiated against the Industrial User.

(3) A User/Domestic User, which is responsible, in whole or in part, for any Discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Division Manager prior to the date of any show cause or termination hearing under Sections 4.165 and 4.170, respectively.

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

4.170 TERMINATION OF PERMIT

(1) In addition to those provisions in Section 4.161, any Industrial User that violates the following conditions of the Sewer Use Ordinance, Wastewater Discharge Permits, or orders issued, is subject to Wastewater Discharge Permit termination:

(a) Violation of permit conditions.

(b) Failure to accurately report the Wastewater constituents and characteristics of its Discharge.

(c) Failure to report significant changes in operations or Wastewater volume, constituents and characteristics prior to Discharge.

(d) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring or sampling.

(e) Violation of the Pretreatment Standards in Section 4.111.

(2) Non-complying Industrial Users shall be notified of the proposed termination of their Wastewater Discharge Permit and be offered an opportunity to show cause under Section 4.167 why the proposed action should not be taken.

4.171 INJUNCTIVE RELIEF

When the Division Manager finds that a User or Domestic User has violated, or continues to violate, any provision of the Sewer Use Ordinance, a Wastewater Discharge Permit, or order issued, or any other Pretreatment Standard or Requirement, the Division Manager may petition the appropriate Court through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the Wastewater Discharge Permit, order, or other requirement imposed by the Sewer Use Ordinance on activities of the User/Domestic User. The Division Manager may also take such other action as is appropriate for legal and/or equitable relief, including a requirement for the User/Domestic 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/Domestic User.

4.172 CIVIL PENALTIES

(1) Any User or Domestic User, which has violated or continues to violate the Sewer Use Ordinance, any order or permit, or any other Pretreatment Requirement shall be liable to the City for a maximum penalty of $10,000 per Violation. In the case of a monthly or other long term average Discharge limit, penalties shall accrue for each calendar day during the period of this Violation.

(2) The court may award reasonable attorney fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses,

and the cost of any actual damages incurred by the City.

(3) In determining the amount of civil penalty, the City and the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the Violation, corrective actions by the User/Domestic User, economic benefit to the User/Domestic User of noncompliance, the compliance history of the User/Domestic User, and any other factors as justice requires.

(4) Where appropriate, the City may accept mitigation projects in lieu of the payment of civil penalties as long as the project is consistent with the State DEQ's requirements for supplemental Environmental Projects.

4.173 CRIMINAL PROSECUTION

(1) Any User who intentionally, knowingly or with criminal negligence violates any provisions of the Sewer Use Ordinance, any orders or permits issued, or any other Pretreatment Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a maximum fine of $5,000 or imprisonment for not more than 1 year, or both.

(2) Any User who knowingly makes any false statement, representation or certification in any application, record, report, plan or other documentation filed or required to be maintained pursuant to the Sewer Use Ordinance or Wastewater Discharge Permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under the Sewer Use Ordinance shall, upon conviction, be punished by a maximum fine of $5,000 or imprisonment for not more than 3 years, or both. In the event of a second or subsequent conviction for this offense, the court shall impose a mandatory minimum fine of $50,000 and imprisonment for not less than 3 years and not more than 5 years.

(3) If any Violation of this section is a continuing one, every day such Violation continues shall constitute a separate offense.

4.174 REMEDIES NONEXCLUSIVE

(1) A City Enforcement Response Plan will be developed by the Division Manager in accordance with 40 CFR 403.8 and submitted to the Director for approval and certification. The Division Manager will implement the plan after receiving approval from the Director.

(2) The remedies provided for in the Sewer Use Ordinance are not exclusive. The Division Manager may take any, all, or any combination of these actions against a noncompliant User or Domestic User. Enforcement of Pretreatment Violations will be in accordance with the City's Enforcement Response Plan. However, the Division Manager may take other action against any User/Domestic User when the circumstances warrant. Further, the Division Manager is empowered to simultaneously or consecutively take more than one enforcement action against any noncompliant User/Domestic User.

4.175 PERFORMANCE BONDS

The Division Manager may decline to reissue a permit to any Industrial User which has failed to comply with the provisions of the Sewer Use Ordinance, any orders, or a previous permit issued unless such User first files a satisfactory bond, or other security, payable to the City, in a sum not to exceed a value determined by the Division Manager to be necessary to achieve consistent compliance, and issued in a form and by a surety approved by the City Attorney.

4.176 LIABILITY INSURANCE

The Division Manager may decline to reissue a permit to any Industrial User which has failed to comply with the provisions of the Sewer Use Ordinance, any orders, or a previous permit issued, unless the Industrial User first submits proof that it has obtained financial assurance sufficient to restore or repair damage to the POTW and to other Persons caused by the Industrial User's Discharge.

4.177 WATER SUPPLY SEVERANCE

When a User or Domestic User has violated the provisions of the Sewer Use Ordinance, orders, or permits issued, water service to the User/Domestic User may be severed by the Director and service will only recommence, at the expense of User/Domestic User, after it has satisfactorily demonstrated its ability to comply.

4.178 PUBLIC NUISANCE

Any Violation of the prohibitions or effluent limitations of the Sewer Use Ordinance, permits, or orders issued is hereby declared a public

nuisance and shall be corrected or abated as directed by the Director or his designee. Any Person(s) creating a public nuisance shall be subject to the provisions of the City Codes governing public nuisances, including reimbursing the City for any costs incurred in removing, abating or remedying said nuisance.

4.179 CONTRACTOR LISTING

Subject to other applicable law, Industrial Users, which have not achieved consistent compliance with applicable Pretreatment Standards and requirements are not eligible to receive contract awards for the sale of goods or services to the City.

4.180 AFFIRMATIVE DEFENSES

A User or Domestic User shall have those affirmative defenses as provided by Federal regulations in any action alleging a Violation brought against User/Domestic User.

4.181 AFFIRMATIVE DEFENSE – UPSET

(1) For the purpose of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed Treatment facilities, inadequate Treatment facilities, lack of preventive maintenance, or careless or improper operation.

(2) An upset shall be an affirmative defense to an enforcement action brought for noncompliance with Categorical Pretreatment Standards and Requirements if the following conditions of Sections 4.181 (3), (4) and (5) are met:

(3) A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(a) The User can identify the cause of the upset.

(b) The facility was operating in a prudent and workman-like manner at the time of the upset and was in compliance with applicable O&M procedures; and

(c) The User submits the following information to the Division Manager within 24 hours of becoming aware of the upset, If this report is given orally, the User must also submit a written report containing such information within 5 days unless waived by the Division Manager:

(i) A description of the Discharge and its causes of noncompliance;

(ii) The period of noncompliance including exact dates and time or, if not corrected, the anticipated time the noncompliance is expected to continue;

(iii) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(4) In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have burden of proof.

(5) Users will have the opportunity for judicial determination on any claim of upset only in an enforcement action for noncompliance with Categorical Pretreatment Standards.

4.182 AFFIRMATIVE DEFENSE – GENERAL/SPECIFIC PROHIBITIONS

An Industrial User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in Section 4.110 or the specific prohibitions in Sections 4.110(2) (b)-(c), (e)-(k), (m)-(t) if it can prove that it did not know or have reason to know that its Discharge, alone or in conjunction with Discharges from other sources, would cause Pass Through or Interference and that either:

(1) 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

(2) No Local Limit exists, but the Discharge did not change substantially in nature or constituents from the User's prior Discharge when the City was regularly in compliance with its NPDES permit, and in the case of Interference, in compliance with applicable sludge use or disposal requirements.

4.183 BYPASS

(1) For the purposes of this section,

(a) "Bypass" means the intentional diversion of wastestreams from any portion of a User's Treatment Plant.

(b) "Severe property damage" means substantial physical damage to property,

damage to the Treatment Plant, 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.

(2) A User may allow any bypass to occur, which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (3) and (4).

(3) Bypass Notification

(a) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Division Manager, at least 10 days before the date of the bypass, if possible.

(b) A User shall submit oral notice to the Division Manager of an unanticipated bypass that exceeds applicable Pretreatment Standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Division Manager may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(4) Bypass

(a) Bypass is prohibited, and the Division Manager may take an enforcement action against a User for bypass, unless

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary Treatment Plants, retention of untreated waste, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup 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

(iii) The User submitted notices required under Subsection (3).

(b) The Division Manager may approve an anticipated bypass, after considering its adverse effects, if the Division Manager determines that it will meet the 3 conditions listed in Subsection (4)(a).

4.184 PRETREATMENT CHARGES AND FEES

(1) The consumption rates, demand charges, capacity charges and customer charges to defray administrative costs imposed in conjunction with Wastewater services shall be established and revised by Resolution in accordance with Sections 4.020 and 4.415 – 4.426.

(2) In accordance with the requirements of Section 1.075, the City may adopt reasonable charges and fees for reimbursement of costs of setting up and operating the City's Pretreatment Program. These fees and charges may include:

(a) Fees for permit applications and permits including the cost of processing such applications and/or permits;

(b) Fees for monitoring, inspection and surveillance procedures including the cost of reviewing monitoring reports submitted by Industrial Users;

(c) Fees for reviewing and responding to accidental Discharge procedures and construction;

(d) Fees for filing appeals;

(e) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by the Sewer Use Ordinance and are separate from all other fees, fines and penalties chargeable by the City.

4.185 SEVERABILITY

If any provision of the Sewer Use Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

4.186 CONFLICTS WITH OTHER ORDINANCES

To the extent that an inconsistency exists between the terms of the Sewer Use Ordinance and another existing City Code provision, the Sewer Use Ordinance shall be deemed to preempt the other Code provision and the terms of the Sewer Use Ordinance shall control.

[(Sections 4.100-4.199 repealed); Added Sections 4.100-4.186 by Ordinance No. 09-04, enacted April 21,2009.]

WATER

GENERAL

4.205 TITLE AND SCOPE

(1) Sections 4.205 to 4.405 shall be known as The Water System Act.
(2) All customers receiving services from the City water system are bound by the provisions of this Act.

4.210 DEFINITIONS

For the purposes of Sections 4.205 to 4.405, the following words and phrases shall mean:

Customer Service Line. That part of the piping on the customer's property that connects the service to the customer's distribution system.

Service Connection. That part of the water distribution system which connects the meter to the main and which normally consists of corporation stop, service pipe, curb stop and box, meter, meter yoke, and meter box.

4.215 APPLICATION FOR SERVICE [REPEALED – RENUMBERED TO SECTION 4.038]

[Repealed (Renumbered to Section 4.038) by Ordinance No. 6647, enacted Dec. 18, 1992.]

4.220 OWNERSHIP, INSTALLATION AND MAINTENANCE

The City shall own and maintain all service connections. The installation and maintenance shall only be performed by authorized employees of the City or by qualified, licensed craftspersons under the direct supervision of Public Works Department staff. No connection to a City water main or service connection will be permitted without the prior approval of the Public Works Department. The customer shall own, install and maintain the customer service line.
[Amended by Ordinance No. 02-23, enacted Dec. 17, 2002.]

4.225 SERVICE CONNECTION CHARGE

At the time the applicant files for service where no service previously existed, or if he/she files for a change in service, he/she shall submit with the application the service connection charge. This charge is to cover the actual cost to the City of installing the service from the main to and including the meter and the meter housing. *The City Manager is authorized to set and modify the service connection charge in accordance with the requirements of Section 1.075.* The service connection charge is in addition to any Systems Development Charge imposed pursuant to Sections 3.505 to 3.590. [Amended by Ordinance No. 6623, enacted July 1, 1991; amended by Ordinance No. 07-09, enacted March 5, 2007.]

4.230 SIZE OF SERVICE

The City shall furnish and install, or permit to be installed, a service of such size and at such locations as the applicant requests, provided that such requests are reasonable and that the size requested is one that is authorized by the City. The City may refuse to install a service line which is undersized or oversized, as determined by a study and report of the Public Works Department to the City Manager. [Amended by Ordinance 02-23, enacted Dec. 17, 2002.]

4.235 CHANGES IN SERVICE

Permanent changes in the location, grade or size of the service line or meter requested by a customer shall be paid by the customer on the basis of actual cost to the City of making the change, including administration. The customer shall deposit a sum equal to the estimated cost in advance.
[Amended by Ordinance No. 6614, enacted Jan. 16, 1991.]

4.240 LENGTH OF SERVICE

(1) Where the main is in the public right-of-way, the meter shall be placed at the right-of-way line nearest the property to be served for the standard connection fee, provided that the length of service line does not exceed the width of the right-of-way.
(2) Where the main is on an easement or publicly owned property other than designated right-of-way, the services shall be installed to the boundary of the easement or public property by the City, provided that the length of service does not exceed 30 feet.
(3) If, in either case cited above, the length of service line to the meter location exceeds to the maximum stated, the applicant shall pay the extra cost of the line on the basis of actual cost to the City for labor, materials, and equipment, plus 15% for administrative

costs.4.245

4.245 METERS

(1) Installation of water meters shall be performed only by authorized employees of the City. All meters shall be sealed by the City at the time of installation, and no seal shall be altered or broken except by one of its authorized employees.

(2) The joining of several customers to take advantage of the single minimum charges and large quantity rates shall be prohibited, except under special contract, in writing, with the Council.

(3) If, for any reason, a change in the size of a meter and service is required, the installation shall be accomplished by the basis of a new connection, and the customer's application shall be so amended. Meters or services moved for the convenience of the customer shall be relocated only at the customer's expense.

4.250 WATER RATES AND DEMAND AND CONNECTION CHARGES

(1) Water rates**,** capacity charges and demand charges shall be established and modified by the Council and computed on the basis of units, one unit equaling 100 cu. ft., as follows:

(a) All consumption of water shall be charged at a flat rate per unit. Cubic feet readings shall be to the nearest 100 cu. ft.

(b) Service to industrial customers, independent water districts, and all other special contracts may be negotiated by the Council.

(c) A customer charge may be imposed and collected at the discretion of the Council for the purpose of defraying the costs of meter reading, billing, accounting, and other administrative costs. The Council may also, in its discretion, impose a capacity charge.

[Previous subparagraph 3 repealed by Ordinance No. 6621, enacted June 17, 1991; Added by Ordinance No. 02-02, enacted Feb. 5, 2002.]

(2) A new account fee shall be collected for a new account. A new account is the initial process of application for service, setting up the billing procedure, reading of the meter, and turning on the water or any part thereof and at a single location for a given customer. The City Manager is authorized to set and modify the new account fee in accordance with the requirements of Section 1.075.

(3) A Systems Development Charge shall be collected pursuant to Sections 3.505 to 3.590 and Council Resolutions adopted.

[Amended by Ordinance No. 6614, enacted Jan. 16, 1991; Amended by Ordinance No. 6621, enacted June 17, 1991; Amended by Ordinance No. 6623, enacted July 1, 1991; Amended by Ordinance No. 07-09, enacted March 5, 2007.]

4.255 METER READINGS

(1) Meters shall be read and customers billed on the basis of the meter reading to the nearest 100 cubic feet. No charge shall be made for amounts from 1 to 49 cubic feet, and the charge for amounts from 50 to 99 cubic feet shall be for 100 cubic feet.

(2) The Finance Division shall keep an accurate account on its books of all readings of meters, and such account may be offered at all times, places, and courts as prima facie evidence of the use of water service by the customer.

4.260 DISCONTINUE OF SERVICE - ON CUSTOMER REQUEST

(1) A customer about to vacate any premises supplied with water service by the City shall give the City written notice at least 2 days prior thereto, specifying the date service is to be discontinued. The customer shall be responsible for all water supplied to such premises until water service is actually discontinued by the City or 2 days after the City receives notice, whichever occurs first.

(2) At the time the customer expects to vacate The premises where service is supplied or when service is to be discontinued, the meter shall be read and a bill rendered which is payable immediately. In no case shall the bill be less than the bimonthly minimum.

4.262 DISCONTINUE OF SERVICE - NONPAYMENT OF BILLS

A customer's water service shall be discontinued if the water bill is not paid in accordance with the procedures listed in Sections 4.035 and 4.040.

4.264 DISCONTINUANCE OF SERVICE - IMPROPER CUSTOMER FACILITIES

(1) The City may refuse to furnish water and may discontinue services to any premises without prior notice where plumbing facilities, appliances, or equipment using water are dangerous, unsafe, or not in conformity with the State Plumbing Code as adopted pursuant to ORS Chapter 447.

(2) Cross Connections.

(a) A cross connection is any physical connection between the City's system and another source and includes those cross connections prohibited by the State Health Division and the U.S. Public Health Service.

(b) The City shall not knowingly permit any cross connection and shall discontinue service to any premises where a cross connection exists. Service shall not be restored until the cross connection is eliminated. Customers using water from one or more sources in addition to receiving water from the City on the same premises shall maintain separate systems for each; and the City's water supply facilities shall be separated from any and all other systems by an air gap of not less than one foot, or, if in the ground, by not less than 5 feet.

(c) In those instances where it is impossible or impractical to determine whether the conditions described in this Section have been complied with, the City may make the installation of an approved back flow preventer unit a condition of continued service in order to afford the greatest measure of health protection from contamination for all persons using the water system.

4.266 DISCONTINUANCE OF SERVICE - UNAUTHORIZED TURN ON

When water service has been discontinued for any reason and the water is turned on by the customer or other unauthorized person, the water may then be shut off at the main or the meter removed. Any unauthorized turn-on or connection is punishable as provided by Section 4.990.

4.268 DISCONTINUANCE OF SERVICE - NONCOMPLIANCE WITH PROVISIONS

The City may, upon 5 days notice, discontinue service to a customer's premises for failure to comply with any of the provisions of Sections 4.205 to 4.380. This notice will be an exception to the provisions of Section 4.035.

4.270 DISCONTINUANCE OF SERVICE - WATER WASTE

When water is wastefully or negligently used on a customer's premises, seriously affecting the general service, the City may discontinue service if such conditions are not corrected after due notice by the City Manager.

4.272 DISCONTINUANCE OF SERVICE - SERVICE DETRIMENTAL TO OTHERS

The City Manager may refuse to furnish water and may discontinue service to any premises where excessive demands by one customer will result in inadequate service to others.

4.275 RESTORATION OF SERVICE

(1) Restoration of service following discontinuance for nonpayment of bills shall be made after payment of past-due charges, a service fee and an additional after-hours fee if the restoration of service is completed outside of normal business hours. The service fee may be assessed when an account is scheduled for disconnect, whether or not the service is actually disconnected. The service fee, after-hours fee, and other fees and charges deemed appropriate by the City Manager may be adopted or modified by the City Manager *in accordance with the requirements of Section 1.075*.

(2) Restoration of service after discontinuance of service for unsafe facilities, water waste, fraud, abuse, or for noncompliance with any of the provisions of Sections 4.205 to 4.380 shall only be made after assurance that the irregularity will not recur. The service fee and other fees and charges deemed appropriate by the City Manager as provided for in subparagraph (1), plus any other expenses due or past due that the City may have incurred to correct the irregularity, shall be paid prior to restoration of service.

(3) Where a meter has been removed as abandoned or because of change, misuses

or tamping, restoration of service shall be conditioned upon payment of the cost to set a new meter.

[Amended by Ordinance No. 94-03, enacted March 10, 1994; Amended by Ordinance No. 01-04, enacted March 6, 2001; Amended by Ordinance No. 07-09, enacted March 5, 2007.]

4.280 ACCESS TO PROPERTY

All duly appointed employees of the City, under the direction of the Public Works Director, shall have free access at all reasonable hours of the day to any and all parts of and premises, to which water is or may be delivered, for the purposes of inspecting connections, the conditions of conduits and fixtures, and the manner and extent in which the water is being used. The City does not, however, assume the duty of inspecting the customer's lines, plumbing and equipment, and shall not be responsible therefore.

4.285 RESPONSIBILITY FOR CUSTOMER EQUIPMENT

(1) The City shall not be liable for any loss or damage of any nature whatsoever caused by any defect in the customer's lines, plumbing or equipment, nor shall the City be liable for loss or damage due to interruption of service or temporary changes in pressure.

(2) The customer shall be responsible for valves on the premises being turned off when the water service is turned on.

4.290 RESPONSIBILITY FOR CITY EQUIPMENT

City equipment on the customer's premises remains the property of the City and may be repaired, replaced or removed by authorized City employees at any time without consent of the customer. No payment shall be made to the customer for the right to install, maintain, replace or remove City equipment on the premises. The customer must exercise reasonable care to prevent damage to equipment and must in no way interfere with its operation. The customer must keep vicious dogs or other animals secured or confined to avoid interference with the utility operation and maintenance.

4.295 DAMAGE TO CITY EQUIPMENT

The customer shall be liable for any damage to equipment owned by the City caused by an act of the customer or his/her tenants, agents, employees, contractors, licensees or permittees. Damage to equipment shall include, but not be limited to, breaking of seals and locks, tampering with meters, injury to meters, including but not limited to damages by hot water, steam, or freezing, and damaged meter boxes, curb stops, meter stops, and other service appurtenances.

4.300 FIRE HYDRANTS

(1) No person or persons other than those designated and authorized by the City shall open any fire hydrant belonging to the City; attempt to draw water from it, or in any manner damage or tamper with it. No tool other than a special hydrant wrench shall be used to operate a hydrant valve. In cases where a temporary service has been granted and receives water through a fire hydrant, an auxiliary external valve shall be provided to control the flow of water.

(2) When a fire hydrant has been installed in the locations specified by the proper authority, the City has fulfilled its obligation. If a property owner or other party desires to change the size, type or location of the hydrant, he/she shall bear all costs of such changes. Any change in the location of the fire hydrant must be approved by the Public Works and Fire Departments.

4.305 FIRE PROTECTION SERVICE

Fire protection facilities shall be allowed inside and/or outside of a building under the following conditions:

(1) When a building has a fire protection service, which is separate from the regular service to the building, an approved proportional meter or detector check may be used in place of a service meter. The person in control of the building shall agree in writing that water supplied through this service will not be used for any purpose except for extinguishing a fire. If registration is recorded on the meter or detector check, the installation of a service meter or the removal of the service may be required.

(2) No charge shall be made for water used in the extinguishing of a fire if the owner reports the use to the City in writing within 10 days of the fire.

(3) Water may be obtained from fire protection facilities for filling a tank connected with the fire services, but only if written permission is

secured from the City in advance and an approved means of measurement is available. The rate of general use shall apply.

[Amended by Ordinance No. 6621, enacted June 17, 1991.]

4.310 OUTSIDE CITY SERVICE

Service to customers outside the City limits shall be provided subject to the following conditions:

(1) A customer shall comply with and be bound by the provisions of Sections 4.205 to 4.380.

(2) For those customers not on line on May 1, 1978:

(a) The quantity of water supplied is the amount of excess water available.

(b) Pressure and other conditions are to be at the risk of the customer without guarantee, and the City shall have no liability for failure to provide service or for any failure of the system.

4.315 LIMITATIONS ON USE

The City Manager may limit the use of water in times of shortage to all or any portion of the system.

4.320 METER ACCURACY

All meters shall be tested prior to installation. No meter shall be placed in service or allowed to remain in service which is known to have an error in registration in excess of 2% under conditions of normal operation.

4.325 METER TEST

(1) A customer may request the City to test the meter serving his/her premises. The City shall require the customer to deposit a testing fee which shall be an estimate of the cost of testing the meter as determined by the order of the Public Works Director. The test shall be conducted within 7 days of the request. The deposit shall be returned to the customer if the test reveals the meter to over-register more than 2% under conditions of normal operation. If the meter is operating satisfactorily, or if the meter under-registers, the deposit shall be retained by the City. Customers may, at their option, witness any meter tests which they request.

(2) If, upon comparison with past water usage, it appears that a meter is not registering properly, the City may, at its option, test the meter and adjust the charges accordingly if the meter either over-registers or under-registers. No charge for meter testing shall be made to the customer for a meter test initiated by the City.

(3) Meter tests shall be conducted in accordance with standards of practice established by the American Water Works Association.

[Amended by Ordinance No. 6614, enacted Jan. 16, 1991; Amended by Ordinance No. 6622, enacted July 17, 1991.]

4.330 ADJUSTMENT OF BILLS FOR METER ERROR

(1) No credits or debits on charges made prior to testing of the meter shall be borne by the City or the customer should the tested meter show variance, high or low, from the accuracy defined in Section 4.325.

(2) The City shall bill the customer for water consumed while the meter was not registering. The bill shall be computed upon an estimate of consumption based upon the customer's prior use during the same season of the year, or upon a reasonable comparison with the use of other customers receiving the same class of service during the same season and under similar circumstances and conditions.

(3) When an under or over billing occurs, the City shall provide written notice to the customer detailing the circumstances, period of time, and amount of adjustment. If it can be shown that the error was due to some cause, the date of which it can be fixed, the over or undercharge shall be computed back to such date. If no date can be fixed, the City shall refund the overcharge or rebill the undercharge for no more than 6 months' usage. In no event shall an over or under billing be for more than 3 years' usage.

[Amended by Ordinance No. 6622, enacted July 17, 1991.]

4.335 UNUSUAL DEMANDS

When an abnormally large quantity of water is desired for filling a swimming pool, pond, or for other purposes, arrangements must be made with the City at least 2 days in advance of taking such water. Permission to take water in unusual quantities shall be given only if the City water facilities and other consumers are not inconvenienced.

4.340 RESALE OF WATER

Except by special arrangement with the City, no customer shall resell water received from the City, nor shall water be delivered to premises other than those specified in the application for service.

4.345 ABANDONED AND NONREVENUE-PRODUCING SERVICES

When a service connection to a premises has been abandoned or not used for a period of 6 months or longer, the City may remove it. New service shall be placed only upon the customer's application and payment of all applicable charges.

[Amended by Ordinance No. 6622, enacted July 17, 1991.]

4.350 MAIN EXTENSIONS – WITHIN THE CITY LIMITS [REPEALED]

[Repealed by Ordinance No. 6614, enacted Jan. 16, 1991.]

4.352 MAIN EXTENSIONS

Water main extensions to areas or property not presently served shall be installed under procedures and standards established by the Public Works Director and shall be at the expense of the developer or other party or parties requesting the extension. Drawings shall be submitted to and approved by the Public Works Director prior to the start of construction. The size and location of mains shall be approved by the City and all mains shall be located in public rights-of-way or within dedicated easements. The party requesting the extensions shall reimburse the City's cost of construction inspection. Each project shall be installed by City approved contractors and the main extensions shall become the property of the City following final inspection and acceptance by the City.

[Amended by Ordinance No. 6614, enacted Jan. 16, 1991.]

4.355 LOCATION OF EXTENSIONS

Water main extensions shall be made only on rights-of-way, easements, or publicly owned property. Easements or permits secured for main extensions shall be obtained in the name of the City or transferred to the City, along with all rights and title to the main, at the time the service is provided to the customers paying for this extension.

4.360 INTERRUPTIONS IN SERVICE

The City shall not be liable for damage resulting from the interruption of service or from a lack of service. Temporary suspension of service by the City for improvements and repairs will be necessary occasionally. Whenever possible, and when time permits, all customers affected shall be notified prior to shutdowns.

4.365 CITY OWNERSHIP OF SYSTEM

All water mains, valves, fittings, hydrants, and other appurtenances, except "customer service lines" as defined in Section 4.210 shall be the property of the City.

4.370 SPECIAL CONTRACTS

When the applicant's requirements for water are unusual or large, such as an independent water district, or the requirements necessitate considerable special or reserve equipment or capacity, the City, by authorization of the Council, reserves the right to make special contracts, the provisions of which are different from and have exceptions to the regularly published water rates, rules and regulations. The special contract shall be in writing, signed by the applicant and approved by the Council and City Attorney, and signed by the Mayor and Recorder.

4.375 UNAUTHORIZED SERVICE EXTENSIONS

Service extensions from an existing service to other occupancies or ownerships than that for which the existing service was intended is prohibited. Separate residences shall not receive service through a single meter except under special considerations approved by the Council.

4.380 EASEMENTS

Each applicant and user gives and grants to the City an easement and right-of-way through, on and across his/her property for the installation and maintenance of water mains and the necessary valves and equipment for water service.

WATER CURTAILMENT PLAN

4.390 DEFINITIONS

The following words and phrases whenever used in Sections 4.390 to 4.395 shall be construed as defined in this Section unless from the context a different meaning is clearly intended.

Administrator. Public Works Director or his or her designee.

Billing Period. That period used by the City for the reading of water meters consisting of approximately 30 calendar days.

City Water. Water sold or delivered through the City's water system.

Customer. That person designated in City records to receive bills for water service.

Nonessential Commercial Uses. Uses of the water for commercial purposes in excess of the following amounts are determined to be nonessential and are prohibited:

(1) The use of water for schools, parks, recreation areas, golf courses, community food gardens, residential gardens, cemeteries and similar recreation or memorial type facilities in excess of 75% of prior water consumption.

(2) The use of water for nursery operations, restaurants, shopping centers, filling stations and other commercial uses in excess of 75% of prior water consumption.

Nonessential Industrial Uses. Uses of water for industrial purposes in excess of the following amounts are determined to be nonessential and are prohibited.

(1) The use of water for manufacturing, food processing, cooling or cleaning of equipment in excess of 75% of prior water consumption.

(2) The use of water for agricultural irrigation in excess of 75% of prior water consumption.

Nonessential Residential Uses. Uses of water for residential purposes in excess of the following daily usage allotment are determined to be nonessential.

(1) One or two residential units.
Daily Usage Allotment.
One permanent resident - 120 gallons.
Two permanent residents - 200 gallons.
Three permanent residents - 280 gallons.
Each additional permanent resident - 80 gallons.

(2) Multi-residential units.
Daily Usage Allotment.
Each permanent resident - 80 gallons.
Each water user or customer in whose name a water service is supplied to a residence or residences or apartments or other dwelling units, shall upon request of the City Administrator, advise the City under penalty of perjury, the number of permanent residents using water supplied to the residence, residences, apartments or other dwelling units. If the water user or customer fails to advise the City Administrator, each residence, apartment or dwelling unit shall be permitted the water allocation herein provided for one permanent resident.
The usage allotments established for 3 or more residential units should be based on the number of residential units rather than number of persons because the method of computation of allotments will more accurately reflect the true number of permanent residents living in the units over a period of time in light of the turnover and vacancy rates, the difficulty of ascertaining the true number of permanent residents residing and the available census and other statistical data.

Other Nonessential Uses. All other uses of water not expressly set forth in Sections 4.390 to 4.395 in excess of 75% of prior water consumption are determined to be nonessential and are prohibited.

Outside Plants. Irrigation of grass, lawns, ground-cover, shrubbery, gardens, crops, vegetation and trees not located within a fully enclosed building.

Permanent Resident. A person who resides at the dwelling at least 5 days a week, 9 months a year.

Prior Year Water Consumption. The amount of water consumed in the same time period as the first previous non-water curtailment year shall be determined by the City from its records. Where no such records exist, the amount shall be the average use of similar existing services as determined by the City from its records.

Suburban area. Outside the City limits.

Urban area. Inside City limits.

Urban area. Inside City limits.

Waste. Includes:

(1) To use City water to irrigate outside plants between the hours of 10:00 a.m. and 8:00 p.m. (except for drip irrigation) or in

such a manner as to result in runoff for more than 5 minutes.

(2) To use City water to wash sidewalks, walkways, streets, driveways, parking lots, open ground or other hard surfaced areas except where necessary for public health or safety.

(3) To allow City water to escape from breaks within a plumbing system for more than 24 hours after the person who owns or is in control of the system is notified or discovers the break.

(4) To use City water to wash cars, boats, trailers, aircraft or other vehicles by hose without using a shutoff nozzle except to wash such vehicles at commercial or fleet vehicle washing facilities using water recycling equipment.

(5) To serve City water for drinking at a restaurant, hotel, cafe, cafeteria or other public place where food is sold, served or offered for sale, to any person unless expressly requested by such person.

(6) To use City water to clean, fill or maintain decorative fountains, lakes or ponds unless all such water is recirculated.

(7) Except for purposes of building construction, to use City water for construction, compaction, dust control, cleaning or wetting or for building washdown (except in preparation for painting).

(8) To use City water for filling swimming pools or for filling toy, play or other pools with a capacity in excess of 100 gallons provided, however, that water may be added to swimming pools to replace volume lost due to evaporation.

[Added by Ordinance No. 93-4, enacted March 31, 1993.]

4.391 APPLICATION

The provisions of Section 4.390 to 4.395 shall apply to all customers using water provided by the City of Klamath Falls.

[Added by Ordinance No. 93-4, enacted March 31, 1993.]

4.392 DETERMINATION OF WATER SHORTAGE

(1) The City Administrator is authorized to institute emergency water curtailment measures upon determination that a water shortage emergency condition exists. Such determination shall be based on an analysis of the demand for water in the distribution system and the quantity of deliverable water available and storage recover capabilities.

(2) The determination of the City Administrator under this Section shall be effective until the next Council meeting following such determination, at which time the Council shall either ratify or invalidate the determination.

(3) The City Administrator is authorized to terminate water curtailment measures upon determination that a water shortage emergency condition no longer exists. The termination shall become effective at the next Council meeting following the determination of the City Administrator at which time the Council shall either ratify or invalidate the determination.

[Added by Ordinance No. 93-4, enacted March 31, 1993.]

4.393 WATER CURTAILMENT LEVELS

Depending on the severity of the potential water shortage, the City Administrator may implement the following water curtailment levels. During any level, no person shall waste City water.

(1) Level 1. The City Administrator will issue a broad request for voluntary reduction in water use by all city water users. The request will include a summary of the current water situation, along with the reasons for the requested cutback in use and a statement that mandatory cutbacks will be needed if the voluntary efforts do not reduce peak water use by 10%.

(2) Level 2. The City Administrator will issue a restriction on outside water use in the suburban area according to odd/even water days and prohibit waste of water.

(3) Level 3.

(a) The City Administrator will issue a restriction on outside water use according to odd/even water days in the urban area.

(b) The City Administrator will, in the suburban area, prohibit nonessential residential, commercial, industrial and all other nonessential water uses. No City water will be used to water outside plants except for trees, shrubs and food plants.

(c) The City Administrator will place a moratorium on new water service connections and water main extensions within the distribution system.

(4) Level 4. The City Administrator will, in the urban area, prohibit nonessential residential, commercial, industrial and all other nonessential water uses. No City water will be used to water outside plants except for trees, shrubs and food plants.

[Added by Ordinance No. 93-4, enacted March 31, 1993.]

4.394 PENALTIES AND DISCONTINUANCE OF SERVICE

(1) The City Administrator may, after written notice by certified mail or personal staff warning, disconnect the water service of any customer or private user that violates Sections 4.390 to 4.395 on 2 or more days. Service so disconnected shall be restored only upon payment of any turn-on charge hereby fixed at $35 during office hours or $60 after office hours and any other costs incurred by the City of Klamath Falls in the discontinuance of service and the giving of suitable assurance to the City that the action causing the discontinuance will not be repeated.

(2) In addition to the foregoing, the City may, prior to restoration of service, install a flow restrictive device on the customer's service supply line that limits the rate of water flow or total quantity used.

(3) The City Administrator is hereby authorized to enforce the provisions of this Section.

[Added by Ordinance No. 93-4, enacted March 31, 1993.]

4.395 VARIANCES

(1) The City Administrator may, in writing, grant temporary variances for uses of water otherwise prohibited after determining that due to unusual circumstances to fail to grant such variance would:

(a) Cause an emergency condition affecting health, sanitation or fire protection of the applicant or the public.

(b) Result in unemployment or decreased production, after confirmation by the City that the account has instituted all applicable water efficiency improvements.

(2) The City Administrator shall approve or deny the request for exemptions and may impose conditions. Such conditions may include the amount volume restrictions may be exceeded and that all applicable plumbing fixtures or irrigation system be replaced or modified for maximum water conservation. If the City Administrator and the applicant are unable to reach accord on the exemption or if the applicant is dissatisfied with the City Administrator's decision, the applicant may appeal to the Council pursuant to Section 1.025 and the Council will make the final determination. Any variance that has been ratified by Council may be revoked by later action of the City Council.

(3) No such variance shall be retroactive or otherwise justify any violation of Sections 4.390 to 4.395 occurring prior to issuance of temporary variance.

[Added by Ordinance No. 93-4, enacted March 31, 1993.]

PUBLIC BUILDING GEOTHERMAL ACT

4.400 TITLE AND SCOPE

(1) Sections 4.400 to 4.408 shall be known as the Public Building Geothermal Act.

(2) All public customers receiving services from the City geothermal system are bound by provisions of this Act.

[Added by Ordinance No. 6450, enacted March 8, 1984.]

4.402 DEFINITIONS

The following terms, as used in Sections 4.400 to 4.408 mean:

BTU. British Thermal Unit.

Customer. A public entity, which receives geothermal heat from the City.

[Added by Ordinance No. 6450, enacted March 8, 1984.]

4.404 SERVICE CHARGES

Upon activation of a service account, the customer shall become responsible for the applicable service charges, which shall be set by Council Resolution in accordance with Subsection 4.020:

(1) Demand charge: the minimum per month for each active service account, exclusive of heat rate and metered heat consumption. Such charge shall include amounts to cover monitoring of the system and development of a contingency reserve fund.

(2) Public facility heat rate based on the meter BTU of heat consumed.

[Added by Ordinance No. 6450, enacted March 8, 1984; Amended by Ordinance No. 6477, enacted Nov. 11, 1984.]

4.406 TERMS AND CONDITIONS OF HEATING SERVICE

(1) The City reserves the right to cease operation of the heating system, or any part thereof, and cancel such services as may be provided by the system, for reasons of emergency maintenance or because of adverse impact upon the geothermal reservoir as authorized by the City Manager. Adverse impact is defined as test results outside the parameters established by the computer model developed from the data collected during the 1983 reservoir test supervised by a United States Geological Survey hydrologist. The City Manager shall diligently endeavor to provide the earliest and widest possible customer notice prior to such emergency actions;

(2) The City may, by Council Resolution, establish regular seasonal periods of heating service operation and inoperation;

(3) The City shall assume no liability whatsoever, direct or implied, for any customer damages or injuries incurred as a result of heating service interruption or cancellation, when such interruption or cancellation is due to circumstances beyond the control of the City, or due to operational actions authorized by this Act;

(4) The City shall not warrant or guarantee the temperature or chemical quality of the fluid delivered to customer, nor assume any liability whatsoever, direct or Implied, for corrosion, scaling, or similar physical degradation of user pipelines or private heating or cooling equipment utilized beyond each service connection.

[Added by Ordinance No. 6450, enacted March 8, 1984.]

4.408 ADDITIONAL TERMS AND CONDITIONS

In addition to those terms and conditions set forth in Section 4.406, all City heating services shall be subject to those like terms and conditions of water service set forth in Sections 4.260 to 4.295, hereby specifically made applicable to geothermal heating service.

[Added by Ordinance No. 6450, enacted March 8, 1984.]

SEWER USER RATE

GENERAL

4.415 PURPOSE AND POLICY

Sections 4.415 to 4.425 hereinafter referred to as "User Rate Ordinance" set forth uniform requirements for establishing a system of user 4.415 Purpose and Policy charges based on actual or estimated use of wastewater treatment services, in which each user class pays its proportionate share of operation and maintenance (including replacement) costs. This enables the City to comply with applicable State and Federal laws required by the Clean Water Act of 1977 and the User Charge Regulations (40CFR, Part 35.929). The objectives of this User Rate Ordinance are:(1) To establish classes of users having similar flows and wastewater characteristics; i.e., levels of biochemical oxygen demand, suspended solids, etc.

(2) To assign to each class, its share of the waste treatment works operation and maintenance costs based on the proportional contribution of the class to the total treatment works loading.

(3) To establish procedures for management of the Sewer Fund and for rate reviews and customer notification which will distribute the cost of operation and maintenance of the wastewater treatment works to the pollutant source and will promote self-sufficiency of treatment works with respect to operation and maintenance costs. This User Rate Ordinance provides for the financial management of the Sewer Fund, for the allocation of costs to user classes, and for the setting of fees for the equitable distribution of cost to the classes based on their use of the treatment systems. This User Rate Ordinance shall apply to the City of Klamath Falls and to persons outside the City who are, by contract or agreement with the City, Users of the City Publicly Owned Treatment Works (POTW), and are required by such contract or agreement to comply.

[Added by Ordinance No. 6497, enacted Sept. 3, 1985.]

4.416 ABBREVIATIONS

The following abbreviations shall have the designated meanings.

BOD	Biochemical Oxygen Demand
CRF	Code of Federal Regulations
EPA	Environmental Protection Agency
L	liter
Mg	milligrams
mg/l	milligrams per liter
O & M	Operations and Maintenance
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
TSS	Total Suspended Solids

[Added by Ordinance No. 6497, enacted Sept. 3, 1985.]

4.417 DEFINITIONS

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this User Rate Ordinance, shall have the meanings hereinafter designated:

Act. The Clean Water Act (33 U.S.C. 1251 et seq., as amended).

Biochemical Oxygen Demand. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, 5 days of twenty degrees (20E) centigrade, expressed in terms of weight and concentration (mg/l).

Collector Sewer. The common lateral sewers, within a publicly owned treatment system, which are primarily installed to receive wastewater directly from facilities which convey wastewater from individual systems, or from private property.

Combined Sewer. A sewer that is designated as a sanitary sewer and a storm sewer.

Director. The City Public Works Director or his duly authorized representative.

Environmental Protection Agency. The U.S. Environmental Protection Agency or, where appropriate, the Administrator or other duly authorized official of said agency.

Industrial User. Any nongovernmental, nonresidential user of a publicly owned treatment works which is identified in the Standard Industrial Classification Manual, 1972,

Office of Management and Budget, as amended and supplemented, under one of the following Divisions: A, B, D, E. I.

Operation and Maintenance. Activities required to assure the dependable and economical function of the treatment works:

(a) Maintenance: Preservation of functional integrity and efficiency of equipment and structures.

(b) Operation: Control of unit processes and equipment. Includes financial and personnel management, records, laboratory control, process control, safety and emergency operation planning.

Premises Served. Any lot, tract, or parcel of land using a City sewer, or within 200 feet of an available sewer when the premises are put to a use which requires sewage facilities, though not connected with such facilities.

Replacement. Expenditures for obtaining and installing equipment accessories, or appurtenances which are necessary to maintain the capacity and performance during the service life of the treatment works for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

Residential Customers. All customers who own or occupy buildings and structures that are used solely as individual dwelling units.

Sanitary Sewer. A conduit intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

Storm Sewer. A sewer designed to carry only storm waters, surface runoff, street wash water, and drainage.

Treatment Works. Any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial waste to implement Section 201 of the Act, or necessary to recycle or reuse water at the most economical cost over the useful life of the works.

User Charge. A charge levied on users of a treatment works, or that portion of the ad valorem taxes paid by a user, for the user's proportionate share of the cost of operation and maintenance (including replacement) of such works under Sections 204 (b) (1) (A) and 201 (h) (2) of the Act and subpart 35.

Water User. Any person who uses any private or public water supply and whose premises are served by the City sewer system.

[Added by Ordinance No. 6497, enacted Sept. 3, 1985.]

4.418 DESIGNATION OF USER CLASSES

Classes of users are established by grouping and designating in separate categories, those users having similar flows and wastewater characteristics; i.e., levels of BOD, TSS, etc. The classes are established as follows:

Residential I: Single-family and duplex dwelling.

Residential II: Multifamily dwellings, which include apartments, trailer courts with a single metered connection, or any other unit comprised of 3 or more dwelling units.

Commercial I: Users of a commercial nature which discharge wastewater having a strength of 0 to 400 mg/l, with strength defined as BOD or TSS concentration, whichever is higher.

Commercial II: Those users discharging wastewater in quantity exceeding 25,000 gallons per day or having a strength exceeding 400 milligrams per liter.

[Added by Ordinance No. 6497, enacted Sept. 3, 1985; Amended by Ordinance No. 6518, enacted Nov. 17, 1986; Amended by Ordinance No. 94-32, enacted Oct. 20, 1994.]

4.419 ASSESSMENT OF CHARGES

Just and equitable charges and fees shall be paid for the use of all existing and future sewer systems of the City by each person in control of premises served or by the water users upon such premises. The charges and fees shall consist of the following:

(1) Sewer Connection Fee. The sewer connection fee shall be established by Council Resolution and shall include the Systems Development Charge imposed by Sections 3.505 et seq. together with the City's connection cost represented by the average cost of inspecting and installing sewer connections.

(2) User Service Charges. The user charges distribute the cost of operation and maintenance of the treatment works to each user class in proportion to the contribution of each class to the total waste water loading of the treatment works. Factors such as strength, volume, and delivery flow rate characteristics shall be considered and included as the basis for the user class contribution to ensure a proportional distribution of operation and maintenance costs to each user class.

[Added by Ordinance No. 6497, enacted Sept. 3, 1985; Amended by Ordinance No. 6621, enacted June 17, 1991; Amended by Ordinance No. 6623, enacted July 1, 1991; Amended by Res. 03-05, enacted Feb. 4, 2003.]

4.420 USER CHARGES

(1) The user charges shall be based on the following factors for each class:

Residential I & II and Commercial I**:** The sewer service charge may be based on the level of water usage or a flat monthly rate.

Commercial II: The sewer service charge shall be based on the level of water usage plus a strength surcharge.

(2) A monthly charge based on consumption may provide for a minimum usage charge and may be structured to provide a flat rate during the irrigation season based on the actual charges during the non-irrigation season. For new service accounts during the irrigation season, a flat monthly rate may be established to be used until actual non-irrigation measurements are available.

(3) In the event a consumption rate basis is adopted for Commercial I and provisions for an irrigation season adjustment is adopted, the Director is authorized to place those Commercial I users who do not have irrigation needs, into a year round consumption based billing.

(4) Consumed water shall be measured by City of Klamath Falls water meters. If the meter is not functioning charges shall be based on the previous average use.

(5) In cases where a water user uses the City's sewer system but has a water source or any part thereof metered privately or by a supplier other than the general water system supplier, such water user shall, upon written request, report the amount of water used in any given period to the City or its designated agent. The City or its agent may inspect and read such meters at all reasonable times for purposes of determining water consumption.

(6) In cases where a water user uses the sewer system of the City, but whose water source or any part thereof is not metered and for geothermal water discharged to the City sewer system, such person, upon written notice from the Public Works Department, shall at his/her own expense install an appropriate water meter or meters in order to measure the amount of water consumed, or install an appropriate meter or meters, in order to measure the actual flow contributed into the City's sewer system.

(7) Charges to persons and businesses located in the City of Klamath Falls for sewer service not furnished but which abuts the property line shall be 50% of the monthly charge that would be required for persons or businesses in that classification that are furnished sewer service unless a waiver is granted and further provided that the person or business makes written application for the 50% rate to the Department of Public Works and the Department approves said application after first determining that there is no sewer hookup. The reduced rate shall only become effective for the billing periods after the date of the application.

[Added by Ordinance No. 6497, enacted Sept. 3, 1985; Amended by Ordinance No. 6551, enacted April 4, 1988; Amended by Ordinance No. 94-32, enacted Oct. 20, 1994; Amended by Res. 03-05, enacted Feb. 4, 2003.]

4.421 SEWER CAPITAL EXPANSION FUND

The Sewer Capital Expansion Fund is established to provide accounting of revenue from wastewater Systems Development Charges, improvement fees. Expenditures from this fund shall only be used for capacity increasing capital improvements, including expenditures relating to repayment of future debt for the improvements.

[Added by Ordinance No. 6497, enacted Sept. 3, 1985; Amended by Ordinance No. 6623, enacted July 1, 1991.]

4.422 REPEALED

[Repealed by Ordinance No. 6623, enacted July 1, 1991.]

4.423 OPERATIONS & MAINTENANCE M ALLOCATION

Procedures shall be established to insure that the user charge system generates sufficient revenue to offset the cost of all pretreatment works operation and maintenance. The following guidance shall apply:

(1) The distribution of O & M costs to user classes in proportion to each user class contribution to total wastewater loading shall be accomplished as follows:
   (a) Determine user service charge revenue required by considering projected O & M costs, equipment replacement, miscellaneous user charge revenue, any surplus funds from user charges in the previous year.
   (b) Establish system loading and class loading values from treatment plant and billing data.
   (c) Allocate cost to system processes and loadings.
   (d) Using system loadings and costs, compute unit costs. ($/1000 Gal. Flow, $1,000 lbs. BOD, etc.)
   (e) Determine loading attributable to user classes.
   (f) Apply unit costs to class loading values to compute total costs allocated to each class, $/year.
   (g) Using the annual costs for each class and the annual basis of the rate schedule for that class (monthly, per hcf, etc.) compute the user charge rate for each class.
   (h) Apply any excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year, and adjust the rate accordingly.

(2) For the first year of operation, O & M costs shall be based upon experience for the existing treatment works.

(3) The user charges shall be reviewed annually as described in Section (1) above, and revised periodically to reflect actual treatment works operation and maintenance costs.

(4) Each user shall be notified annually in conjunction with a regular bill, of the rate and portion of charges attributable to wastewater treatment services.

[Added by Ordinance No. 6497, enacted Sept. 3, 1985.]

4.424 APPEAL

Those users classified as Residential II or Commercial I or II who disagree with the classification as established by the City of Klamath Falls shall serve written notice upon the City along with a deposit of $100 requesting that the sewer service charges be adjusted because the metered flow of water contains non-sewer flows that should be excluded from the billing rate, or to request a change of classification because of the sewage strength. The Public Works Director shall initiate a procedure to determine the amount of non-sewer flow or the strength of sewage discharged by a commercial establishment. Users requesting a change shall be responsible for all costs incurred, which include, but are not limited to, the following: Testing services, professional engineering or scientific services, excavation costs, labor costs, and administrative costs. If the deposit is not sufficient to cover the cost incurred in the aforementioned tests, the City shall bill the user for the balance. If the deposit is more than the costs incurred in performing the tests, the balance shall be remitted to the User. The decision of the Public Works Director shall be final, subject only to the Appeal procedure described below.

[Added by Ordinance No. 6497, enacted Sept. 3, 1985.]

4.425 ADMINISTRATION AND UNIFORM APPEAL AND HEARING PROCEDURE

Administrative details and Hearing Procedures shall be as described in Sections 4.005 through 4.060 and Sections 1.025 through 1.050 respectively.

[Added by Ordinance No. 6497, enacted Sept. 3, 1985.]

4.426 ENFORCEMENT

The administration of the User Charge System and the enforcement and collection of user charges shall be the responsibility of the Finance Division in cooperation with the Department of Public Works. Specific actions regarding billing and payment, delinquent accounts, nonpayment shall be as prescribed in applicable Sections 4.005 through 4.060.

[Added by Ordinance No. 6497, enacted Sept. 3, 1985.]

FRANCHISES

4.505 SPECIAL ENABLING ORDINANCES

The Council may adopt special Ordinances and amend such Ordinances from time to time providing the technical, procedural, and administrative criteria for the issuance of franchises, when such services are performed for other persons for hire or profit, for the following:

(1) Telecommunication Services, including cable and telephone services.
(2) Garbage removal.
(3) Electricity.
(4) Gas.
(5) Such other businesses which case law or statute authorizes the City to franchise.

[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

4.510 SPECIAL FRANCHISING ORDINANCES

The Council, pursuant to criteria established by special enabling Ordinance as provided in Section 4.505 and in Sections 7.370 to 7.499 (Franchise Right of Way Act), may issue franchises by special Ordinance for conducting the public services enumerated in Section 4.505.
[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

4.515 FRANCHISE REQUIRED

No person shall operate or maintain within the City a public service of the kind enumerated in Section 4.505 for which a franchise special enabling Ordinance pursuant to that section has been enacted without having first obtained a franchise from the City. No franchise issued by the City shall be exclusive.

4.520 COMPLIANCE WITH FRANCHISE

No person who has obtained a franchise pursuant to Section 4.510 shall conduct, operate or maintain the public service franchise in any manner inconsistent with the terms, provisions or regulations of the special enabling Ordinance criteria enacted pursuant to Section 4.505 or in Sections 7.370 to 7.499 (Franchise Right of Way Act).
[Amended by Ordinance No. 13-07, enacted Oct. 7, 2013]

STREET LIGHT UTILITY DISTRICTS

4.600 - 4.665 THE STREET LIGHT UTILITY DISTRICT [REPEALED]

[Repealed by Ordinance No. 93-21, enacted Jan. 1, 1994.]

STREET LIGHTING UTILITY ACT

4.700 TITLE

Section 4.700 to 4.730 shall be known as the Street Lighting Utility Act.
[Added by Ordinance No. 93-21, enacted Jan. 1, 1994.]

4.705 PURPOSE AND INTENT

(1) The principal purpose of street lighting is to produce quick, accurate and comfortable vision at night. These qualities combine to safeguard, facilitate and encourage vehicular and pedestrian traffic. The Council also finds that good street lighting provides several economic and social benefits to the public, including:
   (a) Reduction in night accidents.
   (b) Safer and easier pedestrian traffic.
   (c) Prevention of crime and aiding police protection.
   (d) Facilitation of traffic flow.
   (e) Promotion of business and industry during night hours.
   (f) Promotion of community spirit and growth.
(2) It is the intent of this Act to provide a utility based funding mechanism to pay for benefits conferred on City residents by street lights using the authority conferred upon the City by Charter Sections 4 and 5; and further to bring all neighborhoods within the City up to acceptable lighting levels.
(3) The structure of this lighting utility is intended to be a fee for service and not a charge against property. The person responsible for paying the City's water and sewer utility charges is responsible for paying the street light fee which in most cases is the occupant of improved property. Therefore, the fee is not necessarily imposed on the owner of the property and no provision is made herein for making unpaid charges a lien on the owner's property.

[Added by Ordinance No. 93-21, enacted Jan. 1, 1994.]

4.710 IMPOSITION OF STREET LIGHTING FEE

(1) Except as the fees may be reduced or eliminated under Subsection 4.725(2), the obligation to pay street lighting fees arises when a person responsible uses street lighting services. It is presumed that street lighting 4.725 Exemptions services are used whenever there is an improved occupied premises.
(2) Unless another person responsible has agreed in writing to pay and a copy of that writing is filed with the City, the person(s) paying the City's water and/or sewer utility charges shall pay the street lighting fee of $2 per month. A request for water or sewer service will automatically initiate appropriate billing for street lighting services. If there is no water or sewer service to the property or if water and sewer service is discontinued, the street lighting fees shall be paid by the person(s) occupying the property.

[Added by Ordinance No. 93-21, enacted Jan. 1, 1994.]

4.715 COLLECTION

Street lighting utility fees shall be collected monthly. Statements for the user fee shall be on the City utility billing sent and fees collected pursuant to Sections 4.035 and 4.055.
[Added by Ordinance No. 93-21, enacted Jan. 1, 1994.]

4.720 DEDICATION OF FUNDS

All street lighting utility fees and those revenues derived from the additional electric franchise fee shall be placed in a separate fund and shall be used only for the installation, maintenance, administration and operation of street lights and for no other purpose.
[Added by Ordinance No. 93-21, enacted Jan. 1, 1994.]

4.725 EXEMPTIONS

(1) There shall be no charge for those neighborhoods which are not lighted by City street lights until such time as street lights are installed.
(2) Upon application by the customer and verification, the monthly street lighting utility fee shall be reduced to $1 per month for those residential premises at which no occupant owns or operates a motor vehicle.
(3) Any residential area of the City shall be excluded from the provision of street lights and from the monthly $2 fee under the following conditions:

(a) The area to be excluded consists of at least 4 City blocks or 5 intersections, and
(b) At least 51% of the utility customers in the area sign a petition to be excluded.

Petitions showing the area to be excluded, locating the lights to be removed and listing the area's utility customers from whom signatures shall be collected shall, on request, be prepared by the City Attorney's office.

[Added by Ordinance No. 93-21, enacted Jan. 1, 1994.]

4.730 LIGHTING STANDARDS

(1) The May 1, 1989 Street Lighting Modernization Plan proposed by Pacific Power & Light Company is hereby adopted as the City's Master Plan for street lighting. New lights shall be added and existing street lights upgraded in conformance with said plan.
(2) Within 60 months from the date of this Act, all lighting within the City shall be brought up to the standards of the master plan.
(3) The Public Works Department may make minor modifications from the Plan to accommodate changed or extenuating circumstances or reasonable requests from the affected neighborhood residents provided the purposes of this Act continue to be met.

[Added by Ordinance No. 93-21, enacted Jan. 1, 1994.]

PENALTIES

4.990 PENALTIES

(1) A violation of any provision of Sections 4.020 to 4.380 shall be punishable by a fine not to exceed $500.

(2)(a) When not otherwise provided by the special enabling Ordinance enacted pursuant to Section 4.505, a violation of any provision of Sections 4.505 to 4.520 or any of the provisions or Ordinances enacted shall be punishable by a fine not to exceed $500.

(b) Each day's violation as determined by Subsection (2) (a) shall constitute a separate violation.

(c) As an additional penalty for a violation as determined by Subsection (2) (a), the Council may, upon notice and an opportunity to be heard, revoke the franchise granted under Section 4.510.

4.992 PRETREATMENT PENALTIES

Any User who willfully or negligently fails to comply with any provision of the Pretreatment Act, and the order, rules, regulations, and permits issued, shall be fined not more than $1,000 for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the City may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Pretreatment Act or the orders, rules, regulations and permits issued.

[Added by Ordinance No. 6421, enacted June 30, 1983; Amended by Ordinance No. 6648, enacted Dec. 18, 1992.]

4.994 FALSIFYING INFORMATION

Any person who knowingly makes any false statements, representation or certification in any application, record, report plan or other document filed or required to be maintained pursuant to the Pretreatment Act, or Wastewater Contribution Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under the Pretreatment Act, shall, upon conviction, be punished by a fine of not more than $1,000.

[Added by Ordinance No. 6421, enacted June 30, 1983; Amended by Ordinance No. 6648, enacted Dec. 18, 1992.]

SCHEDULE 4-A&B
(combined via Rate Order 01-01-2013)

CITY OF KLAMATH FALLS
UTILITY RATE ORDER
Effective **02-01-2015**

The CPI-U for September 2011-2012 increased 2%. Pursuant to Resolution No. 94-7, Resolution No. 96-34 and Resolution 12-31, the City's water and sewer utility service charges are adjusted according to the CPI. The rates for both water and sewer increased by the 2% CPI.

WATER SERVICE CHARGES

The water utility charges increased 2% CPI.

Customer Charge: $1.38 (all meter sizes)

Meter Size	Capacity Charge	Consumption (inside City)	Consumption (outside City)
5/8"	$1.38	$1.89 per unit	$2.22 per unit
1"	$3.49	$1.89 per unit	$2.22 per unit
1 1/2"	$6.93	$1.89 per unit	$2.22 per unit
2"	$11.08	$1.89 per unit	$2.22 per unit
3"	$20.76	$1.89 per unit	$2.22 per unit
4"	$34.62	$1.89 per unit	$2.22 per unit
6"	$69.26	$1.89 per unit	$2.22 per unit
8"	$110.77	$1.89 per unit	$2.22 per unit

Notes: Bulk users shall be billed under the above rates according to the size of meter utilized.

SEWER CHARGES AND RATES

SEWER SERVICE CHARGES

[Amended by Res. No. 3163, effective Jan. 19, 1988; Amended by Res. No. 3301, effective May 21, 1990; Amended by Res. No. 93-33, effective November 1, 1993; Amended by Res. No. 94-33, effective November 1, 1994; Amended by Res. No. 96-34; Amended by Adm. Order dated 1-2-91; Amended by Adm. Order dated 1-1-99; Amended by Adm. Order dated 1-1-00; Amended by Res. No. 00-13 dated 3-20-00; Amended by Res. No. 00-25 dated 5-15-00; Amended by Ord. No. 00-71, effective 1-1-01; Amended by Adm. Order dated 1-2-01; Amended by Rate Order dated 1-2-02; Amended by Rate Order dated 1-2-03; Amended by Res. No. 03-05, enacted February 4, 2003; Amended by Rate Order dated 1-2-04; Amended by Res. No. 04-17; Amended by Rate Order dated 1-3-05; Amended by Rate Order dated 1-3-06; Amended by Rate Order dated 1-2-07; Amended by Utility Rate Order dated 1-2-08; Amended by Utility Rate Order dated 1-2-09; Amended by Res. No. 09-33; Amended by Resolution No. 10-33; Amended by Resolution 11-29; Amended by Resolution 12-31; Amended by Resolution 15-01]

SEWER SERVICE CHARGE

Customer Class	Current Rate, $/hcf	Feb. 1, 2015 Rate, $/hcf	Jan 1, 2016 Rate, $/hcf ***	Jan. 1, 2017 Rate, $/hcf ***
Single Family & Duplex	$7.82*	$8.27*	$8.44*	$8.61*
Multi-Family	$6.08*	$6.43*	$6.56*	$6.69*
Commercial	$7.81*	$8.26*	$8.43*	$8.60*
Industrial	$3.87**	$4.09**	$4.17**	$4.25**

There shall be a two (2) unit minimum charge each month for all users.

* Charges are based on actual water consumption during billing period 12 of one year through billing period 3 of the next year ("winter season"). Monthly charges for billing periods 4 through 11 of each year ("irrigation season") shall be a flat monthly charge equal to the average of monthly water unit usage for the prior "winter season". Commercial 1 users which do not have landscaping requiring irrigation water shall pay charges based on actual water usage through the entire year.

** Industrial rates shall include an additional "Strength Surcharge" calculated on an individual basis. Strength Surcharges will increase according to the CPI.

*** These rates do not include CPI

FLAT RATES

NEW ACCOUNTS: A flat rate shall be charged for new accounts opened April 1 to October 31 of each year when there are not at least 3 readings during the "winter season" to calculate an average for "irrigation season" billings. New account flat rates shall be as follows:

Customer Class	Current Rate, $/mo./dwelling unit	Feb.1,2015 Rate, $/mo./dwelling unit	Jan.1, 2016 Rate, $/mo./dwelling unit	Jan.1, 2017 Rate, $/mo./dwelling unit
Single Family	$62.56	$66.16	$67.52	$68.88
Duplex	$62.56	$66.16	$67.52	$68.88
Multi-Family	$66.88	$70.73	$72.16	$73.59

INADEQUATE WINTER HISTORY: If an account has fewer than 3 actual readings during the "winter season" because water is not being consumed, the account shall be charged the new account flat rate during the "irrigation season" or, at customer request, a charge based on actual water consumption.

The following shall have the meaning ascribed:

Multi-Family Dwelling: a structure containing three or more residential dwelling units.

Commercial: all non-residential, non-industrial users.

Industrial: a significant Industrial Discharger as defined by Klamath Falls City Code Section 4.136.

Hcf: one hundred cubic feet.

Annual Cost of Living Increase

Effective January 1st of each calendar year starting in 2016 the sewer charges and water service charges shall be adjusted to reflect the annual percentage increase or decrease in the cost-of-living as measured by the national (U.S. City Average) CPI-U for the preceding September to September period. **NOTE**: the CPI has been included for the February 1, 2015 increase.

PRIVATE FIRE SERVICE:	Monthly Charge
1 ½" connection or smaller	$ 5.04
2" connection	$ 8.87
3" connection	$13.99
4" connection	$19.94
6" connection	$39.83
8" connection	$59.71
10" connection	$99.54

Fire hydrant installation: $2000.00 deposit - City will bill customer for additional labor and material (concrete, asphalt & landscape repairs) plus 15% administrative fee.

SCHEDULE 4-C

UTILITY REBATE

Criteria	Rebate	Basis
Low income senior citizens:	$65.00 per utility account	Res. No. 3223

Income: Current levels by family size under Section 8 of the Housing assistance guidelines of the U.S. Department of Housing and Urban Development for low income persons in Klamath County.

Sixty (60) years of age or older.

A resident within the City corporate boundary.

The principal resident of the service address.

[Amended by Resolution No. 00-21, enacted April 18, 2000.]

SCHEDULE 4-D

MICHIGAN STREET GEOTHERMAL

[Added by Res. No. 3064, effective November 18, 1985; Amended by Res. No. 93-36, effective December 1, 1993.]

Thermal Load. Using the Simplified Energy Analysis (SEA) Version 5 computer program developed by Ferreira and Kalasinsky, Associates, Inc. of Norton, Maine, the annual thermal load of each Michigan Street residence serviced by the City's geothermal system shall be computed based on the following criteria.

a. square footage of the resident,

b. the number, size and type of windows,

c. the insulation and other weatherization features; and

d. the number of stories.

Rate Change. Using the computed annual thermal load of each residence, a geothermal service charge shall be imposed equal to seventy-five percent (75%) of the cost of supplying such a thermal load by use of natural gas, according to local natural gas rates. This annual service charge shall then be divided in to twelve (12) equal monthly charges which the City shall bill on its monthly utility billing, or in the alternative, in such manner as mutually agreed to by the City and Customer.

Adjustments. In the event changes to the residence alter the criteria listed in Section 1 or in the event the local natural gas rate is changed, the thermal load shall be recalculated and adjustments shall be made to the service charge to reflect such changes.

Service Contracts. The Public Works Department is directed to compute the annual thermal loads and the resulting service charges to be incorporated into individual service contracts prepared by the City Attorney. The City Manager is authorized to execute such service contracts on behalf of the City. No geothermal service shall be provided to any residence beyond January 1, 1994, except through a service contract prepared pursuant to the terms of this resolution.

SCHEDULE 4-E

GEOTHERMALLY HEATED SIDEWALKS

[Added by Res. No. 96-1, effective February 6, 1996.]

The annual energy charge for sidewalk and crosswalk snowmelting for the downtown area shall be $.25/square foot of heated area.

The Urban Renewal District shall be responsible for the energy charge assessed for all crosswalks and for the sidewalk corners at all intersections. The District shall be billed annually.

The City utility customers for the premises adjacent to heated sidewalk areas shall be responsible for the energy charge for the sidewalk. These utility customers shall be billed at a flat monthly rate equal to $^{1}/_{12}$ of the annual energy charge attributable to the sidewalk adjacent to their premises. This geothermal billing shall be included on the customers monthly City utility bill.

The energy charge is applicable to those premises currently being served with adjacent geothermally heated sidewalks and to those premises which may be included in the system in the future. In the event the customer fails to pay in full the billing by the date due, the City may discontinue geothermal heating service adjacent to the premises, or seek such other relief as may be available by law. Collection shall generally be governed by Code Sections 4.005 to 4.060.

SCHEDULE 4-F

LOCAL LIMITS

[Added by Resolution No. 3313, Enacted July 16, 1990.]

Local limits pursuant to Klamath Falls City Code Section 4.139(5) of the City's Pretreatment Act shall be as follows:

CONSTITUENT	LOCAL LIMIT, MG/L
Arsenic	2.8
Cadmium	0.26
Chromium	3.0
Copper	2.1
Cyanide	1.3
Lead	1.4
Mercury	0.005
Nickel	6.7
Silver	0.35
Zinc	2.6