

**ORDINANCE NO. 1240**

**AN ORDINANCE ADDING CHAPTERS 53.10 THROUGH 53.70 TO THE PRINEVILLE CITY CODE**

**WHEREAS**, the City of Prineville (“City”) requires legal authority to regulate discharges into the City’s sewage system to protect the functioning of the system, including the treatment plant, and to comply with applicable federal and state regulations; and

**WHEREAS**, City staff has worked with the Oregon Department of Environmental Control (DEQ) to ensure ordinances that meet federal and state regulations and that is consistent with the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251, et seq.

**NOW, THEREFORE, THE PEOPLE OF THE CITY OF PRINEVILLE DO ORDAIN AS FOLLOWS:**

1. The Council hereby adopts proposed Chapters 53.10 through 53.70 attached to this Ordinance, to the Prineville City Code.

Presented for the first time at a regular meeting of the City Council held on May 22, 2018, and the City Council finally enacted the foregoing ordinance this 12<sup>th</sup> day of June, 2018.

  
Betty J. Roppe  
Mayor

ATTEST:

  
Lisa Morgan, City Recorder

**Chapter 53.10**  
**WASTEWATER PRETREATMENT**

Sections:

53.10.005	Purpose and Policy
53.10.010	Administration
53.10.015	Definitions
53.10.020	Abbreviations
53.10.025	Prohibited Discharges
53.10.030	Federal Categorical Pretreatment Standards
53.10.035	State Requirements
53.10.040	Local Limits
53.10.045	Right of Revision
53.10.050	Special Agreement
53.10.055	Dilution
53.10.060	Pretreatment Facilities
53.10.065	Compliance Deadline
53.10.070	Additional Pretreatment Measures
53.10.075	Slug Control Plan
53.10.080	Septic Tank Wastes
53.10.085	Permits

**53.10.005 Purpose and Policy**

A. PCC Chapters 53.10 through 53.70 regulate discharges into the City's sewage system to protect the functioning of the system, including the treatment plant, and to comply with applicable regulations. The objectives of these chapters are:

1. To prevent the introduction of pollutants into the system that will interfere with the operation of the treatment plant;
2. To prevent the introduction of pollutants that cannot be adequately treated before discharge from the treatment plant or that are otherwise incompatible with the treatment plan;
3. To ensure that the quality of the treatment plant sludge is maintained at a level that allows its use and disposal in compliance with applicable statutes and regulations;
4. To protect City personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public; and
5. To improve the opportunity to recycle and reclaim wastewater and biosolids from the treatment plant.

B. This title shall apply to all who discharge into the City sewage system. This chapter authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance, and

enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees to recover the City's costs.

### **53.10.010 Administration.**

Except as otherwise provided, the Public Works Director shall administer, implement and enforce this title. The Public Works Director may delegate authority and responsibilities granted by this title.

### **53.10.015 Definitions**

The following definitions apply to PCC Chapters 53.10 through 53.70:

**Act** means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

**Applicable pretreatment standards** means, for any specified pollutant, City prohibitive standards, City specific pretreatment standards (local limits), State of Oregon pretreatment standards, or EPA's categorical pretreatment standards (when effective), whichever standard is appropriate or most stringent.

**Authorized representative of the user** means:

1. By a responsible corporate officer, if the industrial user submitting the reports required by this chapter is a corporation for the purpose of this subsection, a **responsible corporate officer** means:

a. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any person who performs similar policy or decision-making functions for the corporation; or

b. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectfully.

3. If the user is a Federal, State, or local government facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee.

4. The individuals described in subsections (1) through (3) of this definition may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

**Best management practice(s) (BMPs)** means a schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to comply with this chapter. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

**Biochemical oxygen demand (BOD)** means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius, usually expressed as a concentration (milligrams per liter (mg/l)).

**Bio-solids** means solid or semisolid material obtained from treated wastewater, often used as fertilizer.

**Categorical pretreatment standard or categorical standard** means any regulation containing pollutant discharge limits promulgated by the U.S. EPA that apply to a specific category of users. The standards are listed in 40 CFR Chapter I, Subchapter N, Parts 405 through 471.

**Categorical user** means a user regulated by one of EPA's categorical pretreatment standards.

**Chemical oxygen demand** means a test to measure the amount of oxygen consumed where the oxygen is derived from chemicals.

**Composite sample** means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

**Cooling water/noncontact cooling water** means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Cooling water may be generated from any use, such as air conditioning, heat exchanges, cooling or refrigeration to which the only pollutant added is heat.

**DEQ** means the Oregon Department of Environmental Quality.

**Discharge, including indirect discharge,** means any liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, that are discharged into the City sewage system and ultimately to the treatment plant.

**Domestic user (residential user)** means any person discharging wastewater into the City sewage system similar in volume and/or chemical make-up to the discharge of a residential dwelling unit. Discharges from a residential dwelling unit typically include up to 80 gallons per

capita per day, 0.2 pounds of BOD per capita per day, and 0.17 pounds of TSS per capita per day.

**EPA** means the U.S. Environmental Protection Agency, including its authorized officials.

**Existing source** means a wastewater discharge source that was in operation or began construction before the EPA's publication of proposed categorical pretreatment standards applicable to the source if and when the standard is promulgated.

**Existing user** means any noncategorical user that was discharging wastewater prior to the effective date of the City's pretreatment regulations.

**Grab sample** means a sample taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.

**Interference** means:

1. Inhibition or disruption of the City sewage system, including treatment processes or operations;
2. Inhibition or disruption of sludge processes, use or disposal; or
3. Causation of a violation of the City's WPCCF permit or of the prevention of biosolids use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued under those provisions (or more stringent State or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act. Interference is normally caused by discharge.

**Maximum allowable discharge limit** means the maximum concentration or mass loading of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

**Medical wastes** means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

**NAICS codes** means North American Industry Classification System codes.

**New source** means:

1. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed

categorical pretreatment standards under Section 307(c) of the Act which will be applicable to such source if the standards are then promulgated; provided, that:

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

b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation but otherwise alters, replaces, or adds to existing process or production equipment.

3. Construction of a new source as defined under this subsection has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous on-site construction program:

i. Any placement, assembly, or installation of facilities, or equipment; or

ii. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a building contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies, do not constitute a contractual obligation under this subsection.

**New user** means a user that is not regulated under Federal categorical pretreatment standards but that applies to the City for a new building permit or occupies an existing building and plans to commence discharge of wastewater to the City's collection system after the effective date of the ordinance codified in this title. Any person that buys an existing facility that is discharging nondomestic wastewater will be considered an **existing user** if no significant changes are made in the manufacturing operation.

**Pass through** means a discharge that exits the treatment plant into waters of the United States in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of the City's WPCCF permit. This includes an increase in the magnitude or duration of a violation.

**Permittee** means a person or user issued a wastewater discharge permit by the City.

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

**pH** means a measure of the acidity or alkalinity of a substance, expressed in standard units.

**Pollutant** means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor).

**Pretreatment** means 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 City sewage system. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means (except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard).

**Pretreatment requirement** means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

**Pretreatment standards** or **standards** means prohibited discharge standards, categorical pretreatment standards, and local limits established by the City.

**Prohibited discharge standards** or **prohibited discharges** means absolute prohibitions against the discharge of certain substances imposed by this chapter.

**Publicly Owned Treatment Works or POTW** means a treatment works, as defined by section 212 of the Act (33 USC § 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.

**Septic tank waste** means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks, trucked waste and waste tanks.

**Sewage** means human excrement and gray water (household showers, dishwashing operations, etc.).

**Sewage system** means the entire system used by the City to collect, transport, treat, and discharge treated effluent, including all sewers and treatment plants.

**Sewer** means any pipe, conduit ditch, or other device used to collect and transport sewage from the generating source.

**Significant industrial user** means;

1. A user subject to the categorical pretreatment standards; or a user that:
  - a. Discharges an average of 25,000 GPD or more of process wastewater to the City sewage system (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); or
  - b. Contributes to a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or
  - c. Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the treatment plant's operation or for violating any pretreatment standard or requirement.
2. A significant industrial user is an industrial user subject to categorical pretreatment standards under 40 CFR, 403.6 and 40 CFR Chapter I, Subchapter N.
3. Upon a finding that a user meeting the criteria in subsection (1)(a) of this definition has no reasonable potential for adversely affecting the POTW's 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 pursuant to 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

**Sludge** means semisolid material such as the type precipitated by sewage treatment.

**Slug control plan** (40 CFR 403.8(B)(6)(iv)) means requirements to control slug discharges, which include development of a compliance schedule for installation of technology required to meet pretreatment standards and submission of all notices and reports.

**Slug load** means any discharge at a flow rate or concentration which could cause a violation of the discharge standards in this code or any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge.

**Standard industrial classification (SIC) code** means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.



**Stormwater** means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowfall.

**Total suspended solids** or **TSS** means 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.

**Treatment plant** means a “treatment works,” as defined by the Act, that is owned by the City.

**Treatment plant effluent** means liquid discharge from the treatment plant.

**User** or **industrial user** means a source of a direct or indirect discharge to the sewage system other than a domestic user.

**Wastewater** means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are discharged to the sewage system and treated by the treatment plant.

**Wastewater discharge permit** means an authorization or equivalent control mechanism issued by the City to users discharging wastewater to the sewage system. The permit or control mechanism may contain appropriate pretreatment standards and requirements.

**Wastewater treatment plant** or **treatment plant** means the facility that treats municipal sewage and industrial waste.

### **53.10.010 Abbreviations**

The following lists the meanings of abbreviations used in PCC Chapters 53.10 through 53.70:

**BOD** means biochemical oxygen demand.

**CFR** means Code of Federal Regulations.

**COD** means chemical oxygen demand.

**DEQ** means Department of Environmental Quality.

**EPA** means U.S. Environmental Protection Agency.

**GPD** means gallons per day.

**l** means Liter.

**LEL** means lower explosive limit.

**mg** means milligrams.

**mg/l** means milligrams per liter.

**NPDES** means National Pollutant Discharge Elimination System.

**O&M** means operation and maintenance.

**PCC** means Prineville City Code.

**POTW** means publicly owned treatment works.

**RCRA** means Resource Conservation and Recovery Act.

**SIC** means standard industrial classifications.

**Slug control plan** means requirement to control slug discharges.

**SWDA** means Solid Waste Disposal Act (42 USC 6901 et seq.).

**TSS** means total suspended solids.

**USC** means United States Code.

**WPCCF** means water pollution control facility.

### **53.10.025 Prohibited Discharges**

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

B. Specific Prohibitions. No user shall introduce or cause to be introduced into the sewage system the following pollutants, substances, or wastewater:

1. Pollutants that create a fire or explosive hazard, including, but not limited to, wastestreams with a closed-cup flash point of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.

2. Wastewater having a pH less than 6.0 or more than 10.0, or that otherwise will cause corrosive structural damage to the sewage system or equipment.

3. Solid or viscous substances in amounts which will cause obstruction of the flow in or to the sewage system resulting in interference (but in no case solids greater than one-half inch or one and one-quarter centimeters in any dimension).

4. Pollutants, including oxygen-demanding pollutants (BOD, COD, etc.), released in a discharge at a flow rate and/or pollutant concentration that, either singly or by interaction with other pollutants, will cause interference with the sewage system.
5. Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 77 degrees Fahrenheit (25 degrees Celsius) unless DEQ, upon the request of the City, approves alternate temperature limits not to exceed 104 degrees Fahrenheit (40 degrees Celsius).
6. Petroleum oil, nonbiodegradable cutting oil, products of mineral oil origin, or synthetic oils in the amounts that will cause interference or pass through.
7. Pollutants which result in the presence of toxic gasses, vapors, or fumes within the sewage system in a quantity that may cause acute worker health and safety problems.
8. Trucked or hauled pollutants, except at discharge points designated by the City.
9. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life or health, or to prevent entry into the sewers for maintenance or repair.
10. Wastewater that imparts color that cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions that impart color to the treatment plant's effluent. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than 10 percent from the seasonably established norm for aquatic life.
11. Wastewater containing any radioactive wastes or isotopes.
12. Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized in writing by the City.
13. Any sludges, screenings, or other residues from the pretreatment of industrial wastes or from industrial processes.
14. Medical wastes, except as specifically authorized by the City.
15. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
16. Detergents, surface-active agents, or other substances that may cause excessive foaming in the sewage system.

17. Any liquids, solids, or gasses 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 sewage system or to the operation of the sewage system. At no time shall two successive readings of an explosion meter, at the point of discharge into the system (or at any point in the system), be more than five percent nor any single reading over 10 percent of the lower explosive limit (LEL) of the meter.

18. Grease, animal renderings or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gasoline, tar asphalt residues, petroleum products, residues from refining or processing of fuel or lubricating oil, mud, glass grinding or polishing wastes.

19. Any substance which will cause the City to violate its WPCCF and/or other disposal or discharge permits or system permits.

20. Any wastewater, which in the opinion of the City can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the groundwater or receiving waters; or can otherwise endanger life, limb, public property, or constitute a nuisance.

21. The contents of any tank or other vessel owned or used in the business of collecting or pumping sewage, effluent, septic tank waste, or other wastewater unless the operator has obtained testing and approval by the City and paid all fees assessed for the privilege of the discharge.

22. Any hazardous wastes as defined in State regulations or in 40 CFR Part 261.

23. Persistent pesticides and/or pesticides regulated by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

24. Sewage sludge, except in accordance with the City's WPCCF permit.

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

### **53.10.030 Federal Categorical Pretreatment Standards**

The national categorical pretreatment standards promulgated by EPA and found at 40 CFR Chapter I, Subchapter N, Parts 405 through 471 are incorporated into and are enforceable under this title. 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 City.

A. The City may establish equivalent mass limits only if the industrial user meets all the following criteria:

1. The industrial user employs or demonstrates that it will employ water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit.

2. The industrial user uses control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, without using dilution as a substitute for treatment.

3. Sufficient information is provided to establish the facility's actual average daily flow rate for all wastestreams, 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.

4. 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.

5. Consistent compliance with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.

B. An industrial user subject to equivalent mass limits must:

1. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

2. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

3. Continue to record the facility's production rates and notify the City whenever production rates are expected to vary by more than 20 percent from its baseline production rates. Upon notification of a revised production rate, the City will reassess the equivalent mass limit as necessary to reflect changed conditions at the facility; and

4. Continue to employ the same or comparable water conservation methods and technologies as those implemented under this section so long as it discharges under an equivalent mass limit.

C. Where the Authority chooses to establish equivalent mass limits, it will:

1. 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;

2. When notified of a revised production rate, reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

3. Retain the same equivalent mass limit in subsequent control mechanism terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water concentration 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 40 CFR 403.6(d) and this title. The industrial user must also be in compliance with 40 CFR 403.17 (regarding the prohibition of bypass).

#### **53.10.035 State Requirements**

State requirements and limitations on discharges to the sewage system shall be met by all users which are subject to the standards if they are more stringent than Federal requirements and limitations on this title.

#### **53.10.040 Local Limits**

In addition to categorical pretreatment standards, no significant industrial user (SIU) shall discharge wastewater containing pollutants into the system in excess of limitations specified in its wastewater discharge permit or any other limits established by the City. The City may establish and revise from time to time standards for specified restricted substances. These standards shall be developed in accordance with 40 CFR 403.5 and shall implement the objectives of this title. These standards, including best management practices (BMPs), are only applicable to significant industrial users. Standards established in accordance with this title will be deemed pretreatment standards for the purposes of Section 307(d) of the Clean Water Act. Wherever a discharger is subject to both categorical pretreatment standards and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply. The City may also develop best management practices (BMPs) to implement permit specific and local limits for industrial users. BMPs shall be considered local limits and pretreatment standards. The City may impose mass limitations in addition to (or in place of) concentration-based limitations.

#### **53.10.045 Right of Revision**

The City reserves the right to establish, by ordinance, resolution or in wastewater discharge permits, more stringent standards or requirements on discharges to the sewage system.

#### **53.10.050 Special Agreement**

The City may enter into special agreements with users setting out special terms under which they may discharge to the sewage system. Users may request a net/gross adjustment to a categorical standard in accordance with 40 CFR 403.30. They may also request a variance from the categorical pretreatment standard from DEQ in accordance with 40 CFR 403.13. In no case will a special agreement waive compliance with a categorical pretreatment standard, Federal pretreatment requirement, or this title.

### **53.10.055 Dilution**

No user may increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The City may impose mass limitations on users that may be using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

### **53.10.060 Pretreatment Facilities**

Users shall provide wastewater treatment to comply with PCC Chapters 53.10 through 53.70 and shall achieve compliance within the time limitations specified by the EPA, the State, or the City, whichever is most stringent. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review and construction shall not proceed until the plans are approved in writing by the City. The review of the plans and operating procedures does not relieve the users from the responsibility of modifying the facility as necessary to produce a discharge that complies with PCC Chapters 53.10 through 53.70.

### **53.10.065 Compliance Deadline**

Compliance by existing sources covered by categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified in the appropriate standard. The City shall establish a final compliance deadline date for any existing user not covered by categorical pretreatment standards or for any categorical user when the local limits for said user are more restrictive than the Federal categorical pretreatment standards.

New sources and new users are required to comply with applicable pretreatment standards within the shortest feasible time, not to exceed 90 days from the beginning of discharge. New sources and new users shall install, have in operating condition, and shall start up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

Any wastewater discharge permit issued to a categorical user shall not contain a compliance date beyond any deadline date established in EPA's categorical pretreatment standards. Any other existing user or a categorical user that must comply with a more stringent local limit who is in noncompliance with any local limits shall be provided with a compliance schedule placed in an industrial wastewater permit to ensure compliance within the shortest time feasible.

### **53.10.070 Additional Pretreatment Measures**

A. The Director of Public Works may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate

and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the sewage system and determine the user's compliance with the requirements of this title.

B. Each user discharging into the sewage system more than 25,000 gallons per day or more than five percent of the average daily flow into the sewage system, whichever is less, shall install and maintain, on its property and at its expense, a suitable storage and flow-control facility to ensure equalization or flow over a 24-hour period. The facility shall have a capacity for at least 50 percent of daily discharge volume and shall be equipped with alarms and a rate of discharge controller and shall be regulated as directed by the City. A wastewater discharge permit may be issued solely for flow equalization.

C. Grease, oil, and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand, except that such interceptors shall not be required for residential users. All grease, oil, and sand interceptors shall be installed in conformance with the most recent revision of the Oregon Plumbing Specialty Code, the rules adopted thereunder, and any statute or rule of general applicability administered by the State of Oregon Building Codes Division. All interception units shall be of type and capacity approved by the City and shall be located to be easily accessible for cleaning and inspection. Interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at its expense. All records for inspection, cleaning and repair must be maintained and readily available for review by City staff. Records should include third party cleaning manifests.

D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

#### **53.10.075 Slug Control Plan**

A. General Provisions. All users shall provide protection from accidental or intentional discharges of materials that may interfere with or cause pass through to the sewage system by developing and implementing a slug control plan. Facilities necessary to prevent the discharge of prohibited or restricted substances shall be provided and maintained at the user's cost and expense. A plan 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 the plans and operating procedures by the City does not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of PCC 53.10 through 53.70. The plan shall be posted and available for inspection at the facility during normal business hours. SIUs must notify the City immediately of any changes at their facilities, not already addressed in their slug control plan or other slug control requirements, that may affect the potential for slug discharge.

B. Specific Provisions. The City may require any user to develop, submit for approval, and implement a slug control plan. The need and requirement for a plan shall be included in the user's wastewater discharge permit.



- C. A slug control plan shall address, at a minimum, the following:
1. Description of discharge practices, including nonroutine batch discharges;
  2. Description of stored chemicals;
  3. Procedures for immediately notifying the City of any accidental or slug discharge;
- and

4. Procedures to prevent adverse impact from any accidental or slug discharge. Procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

D. Users shall notify the City immediately after the occurrence of a slug or accidental discharge of substance regulated by PCC Chapters 53.10 through 53.70. The notification shall include location, date and time of discharge, type of waste, concentration and volume, and corrective actions. Any affected user shall be liable for any expense, loss, or damage incurred by the City, in addition to the amount of any penalties imposed on the City as a result of the discharge.

E. Within five days following an accidental discharge, the user shall submit to the City a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. The notification does not relieve the user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the sewage system, fish kills, or any other damage to person or property. The notification does not relieve the user of any fines, civil penalties, or other liabilities that may be imposed by PCC Chapters 53.10 through 53.70 or other applicable law.

F. Signs shall be permanently posted in conspicuous places on the user's premises advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

#### **53.10.080 Septic Tank Wastes**

A. Septic tank waste may be introduced into the sewage system only at a designated receiving structure within the treatment plant area, and only at times designated by the City. Those wastes must comply with PCC Chapters 53.10 through 53.70 and other requirements imposed by the City. Wastewater discharge licenses for individual vehicles to use the facilities shall be issued by DEQ. Licenses must be current, up to date, in good standing, and have obtained testing and approval by the City before discharge will be allowed.

B. Septic tank waste haulers may only discharge loads at locations specifically designated by the City. The City may require the hauler to provide a waste analysis of any load prior to discharge.

C. Septic tank waste haulers must provide a City waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, license number, truck identification, sources of waste, and volume and characters of waste.

**53.10.085 Permits**

A. No significant industrial user (SIU) may discharge wastewater into the sewage system without first applying for and obtaining a wastewater discharge permit from the City. Any violation of the terms and conditions of a wastewater discharge permit is a violation of this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of the obligation to comply with all Federal and State pretreatment standards and requirements or with any requirements of Federal, State, and local law.

B. The City may require other users, including those delivering trucked waste, to obtain wastewater discharge permits to carry out the purposes of this title.

**Chapter 53.20**  
**WASTEWATER DISCHARGE PERMITS**

Sections:

53.20.010	Existing SIU
53.20.020	New Sources and New Users
53.20.030	Application Contents
53.20.040	Signatory and Certification Requirement
53.20.050	Wastewater Discharge Authorization
53.20.060	Wastewater Discharge Permit Decisions
53.20.070	Wastewater Discharge Permit Contents
53.20.080	Appeals
53.20.090	Duration
53.20.100	Modification
53.20.110	Transfer
53.20.120	Revocation
53.20.130	Reissuance

**53.20.010 Existing SIU**

Any SIU that does not currently have a wastewater discharge permit must cease discharges until a wastewater discharge permit is obtained.

**53.20.020 New Sources and New Users**

Any new source and any new user that is an SIU must apply for a wastewater discharge permit at least 90 days before startup and may not discharge until its wastewater discharge permit is issued. New sources and new users must include in their application information on the method of pretreatment they intend to use to meet applicable pretreatment standards.

**53.20.030 Application Contents**

All users required to obtain a wastewater discharge permit must submit, at a minimum, the following information. Submitting the following information complies with 40 CFR 403.12((b)).

- A. Identifying Information. The user shall submit the name and address of the facility, including the name of the operator and owners.
- B. Permits. The user shall submit a list of all environmental control permits held by or for the facility.
- C. Description of Operations. The user shall submit a brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by the industrial user, including a list of all raw materials and chemicals used or stored at the facility which are or could accidentally or intentionally be discharged to the sewage system; number and type of employees; hours of operation; each product produced by type, amount,

process or processes, and rate of production; type and amount of raw materials processed (average and maximum per day) and the time and duration of discharges. This description should also include a schematic process diagram which indicates points of discharge to the sewage system from the regulated or manufacturing processes; site plans; floor plans; mechanical and plumbing plans; and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.

D. Flow Measurement.

1. Categorical User. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the sewage system from each of the following:

- a. Regulated or manufacturing process streams; and
- b. Other streams as necessary to allow use of the combined wastestreams formula (40 CFR 403 6(e)).

2. Noncategorical User. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the sewage system from each of the following:

- a. Total process flow, wastewater treatment plant flow, total plant flow or individual manufacturing process flow as required by the Director of Public Works. The City may allow for verifiable estimates of these flows where justified by costs or feasibility considerations.

E. Measurements of Pollutants.

1. Categorical user.

a. The user shall identify the applicable pretreatment standards for each regulated or manufacturing process.

b. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by the categorical pretreatment standard or as required by the City) of regulated pollutants in the discharge from each regulated or manufacturing process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the standard required compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the City or the applicable standards to determine compliance with the standard. Sampling performed shall conform to sampling and analytical procedures required by PCC Chapters 53.10 through 53.70.

c. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.

d. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) for a categorical user, this adjusted limit along with supporting data shall be submitted as part of the application.

2. Noncategorical Significant Industrial User (SIU).

a. The user shall identify the applicable pretreatment standards for its wastewater discharge.

b. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration in the discharge (or mass where required by the City) of regulated pollutants, as appropriate. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures required by PCC Chapters 53.10 through 53.70.

c. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.

F. Certification. The user shall submit a statement that has been reviewed by an authorized representative of the user, and certified by a qualified professional, indicating whether the applicable pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet the applicable pretreatment standards and requirements.

G. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the applicable pretreatment standards, the user shall submit the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The user's schedule shall conform to the requirements of PCC Chapters 53.10 to 53.70. The completion date in this schedule shall not be later than the compliance date established by PCC Chapters 53.10 through 53.70.

1. Where the user's categorical pretreatment standard has been modified by a removal allowance (CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) at the time the user submits the report required by this subsection, the information required by this section shall pertain to the modified limits.

2. If the categorical pretreatment standard is modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) after the user submits the report required by this section, then a report containing the modified information shall be submitted by the user within 60 days after the new limit is approved.

H. Submittal of Information. The user shall submit any other information as may be deemed necessary by the City to evaluate the wastewater discharge permit application. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

**53.20.040 Signatory and Certification Requirement.**

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

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

**53.20.050 Wastewater Discharge Authorization**

The City may use alternate control mechanisms to control wastewater being discharged into the City's sewage system. These control mechanisms may include best management practice (BMP).

**53.20.060 Wastewater Discharge Permit Decisions**

The City will evaluate the data furnished by the user and may require additional information. Within 60 days of receipt of a complete wastewater discharge permit application, the City will determine whether or not to issue a wastewater discharge permit. The permit shall be issued within 60 days of full evaluation and acceptance of the data furnished if all requirements are complied with. The City may deny any application for a wastewater discharge permit that does not meet the applicable standards or that lacks sufficient information.

**53.20.070 Wastewater Discharge Permit Contents**

Wastewater discharge permits shall include conditions as to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the sewage system.

A. Wastewater discharge permits must contain the following conditions:

1. A statement that indicates wastewater discharge permit duration shall not exceed five years;

2. A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from the City, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

3. Effluent limits, including best management practices, based on applicable pretreatment standards and requirements, including any special State requirements;

4. Self-monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, and record-keeping requirements. These requirements shall include an identification of pollutants, or best management practices, to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type based on Federal, State, and local law;

5. The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with PCC 53.30.030.

6. Requirement for immediate notification to the City where self-monitoring results indicate noncompliance;

7. Requirement to report a bypass or upset of a pretreatment facility;

8. Requirement to control slug discharges, if determined by the City to be necessary;

9. Requirement to report immediately to the City all discharges, and facility changes, including slug loadings, that could cause problems to the sewage system;

10. Requirement for the SIU who reports noncompliance to repeat the sampling and analysis and submit results to the City within 30 days after becoming aware of the violation;

11. A statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule.

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

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

3. Requirements for the development and implementation of spill/slug control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;

4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the sewage system;
5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the sewage system;
6. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
7. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit;
8. Other conditions as deemed appropriate by the City to ensure compliance with this title, and State and Federal laws, rules and regulations.

#### **53.20.080 Appeals**

Any person, including the user, may petition the City to reconsider the terms of a wastewater discharge permit or the denial of a wastewater discharge permit within 30 days of its issuance or denial. A wastewater discharge permit or notice of denial of such permit shall contain notice of the petition for review procedures that a person may follow to obtain administrative review of the permit decision.

- A. Failure to submit a timely petition for review waives any right to an administrative appeal.
- B. A petition for review shall be in writing and served either in person or by certified mail to the City. In its petition, the appealing party must specify the name and address of the person filing the petition for review, the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. The City shall conduct a hearing to determine the merits of the petition. Prior to the hearing, the person conducting the hearing shall notify the petitioner of the time and place of the hearing, and that the petitioner will have the opportunity to present evidence and make statements in support of the appeal. The person conducting the hearing shall have the sole discretion to determine the amount of time allowed for the appeal hearing. The person conducting the hearing may rely on any relevant evidence provided by City staff or obtained by any other reasonable means. The decision on the hearing shall be in writing. If the City fails to



make a determination on the petition within 30 days, the petition shall be deemed to be denied, and the permit denial or permit conditions appealed from shall be the final decision of the City.

E. The decision on the petition for review is the final decision of the City. The final decision may only be challenged under the writ of review provisions of Oregon law.

#### **53.20.090 Duration**

Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the City. Each wastewater discharge permit will indicate its expiration date.

#### **53.20.100 Modification**

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

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- C. A change in the sewage system 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 sewage system, City personnel, or receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or any required report;
- G. Revision of categorical pretreatment standards pursuant to 40 CFR 403.13;
- H. To correct typographical or other errors in the wastewater discharge permit; or
- I. To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

#### **53.20.110 Transfer**

Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least 90 days' advance notice to the City and the City approves the transfer. The notice must include a written certification by the new owner and/or operator that:

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

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

Provided that the notice required above occurred and that there were no significant changes to the manufacturing operation or wastewater discharge, the new owner will be considered an existing user and will be covered by the existing limits and requirements in the previous owner's permit.

#### **53.20.120 Revocation**

Wastewater discharge permits may be revoked for, 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. Failure to provide prior notification to the City of changed conditions;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the City timely access to the facility premises and records;
- G. Failure to meet discharge limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of a permitted facility;

M. If the City has to invoke its emergency provision; or

N. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this title.

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

**53.20.120 Reissuance**

A user who is required to have a wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application, at least 90 days prior to the expiration of the user's existing wastewater discharge permit. A user whose existing wastewater discharge permit has expired and who has submitted its re-application in the time period specified herein shall be deemed to have an effective wastewater discharge permit until the City issues or denies the new wastewater discharge permit. A user whose existing wastewater discharge permit has expired and who failed to timely submit its re-application will be deemed to be discharging without a wastewater discharge permit.

**Chapter 53.30**  
**WASTEWATER REPORTING REQUIREMENTS**

Sections:

53.30.010	Baseline Monitoring Reports
53.30.020	Final Compliance Report
53.30.030	Periodic Compliance Report
53.30.040	Pretreatment Standards Compliance Schedules
53.30.050	Notification of Significant Production Changes
53.30.060	Hazardous Waste Notification
53.30.070	Notice of Potential Problems
53.30.080	Noncompliance Reporting
53.30.090	Notification of Changed Discharge
53.30.100	Reports from Unpermitted Users
53.30.110	Record Keeping
53.30.120	Annual Certification

**53.30.010 Baseline Monitoring Reports**

A. Within either 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the sewage system shall submit to the City a report which contains the information listed in subsection (B) of this section. At least 90 days prior to the commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the City a report that contains the information listed in subsection (B) of this section. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

B. Users described above shall submit the information set forth below.

1. Identifying Information. The name and address of the facility, including the name of the operator and owner.

2. Environmental Permits. A list of any environmental control permits held by or for the facility.

3. Description of Operations. A brief description of the nature, average 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.

4. 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 40 CFR 403.6(e).

5. Measurement of Pollutants.

a. The categorical pretreatment standards applicable to each regulated process.

b. The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the City) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the standard required compliance with a best management proactive or pollution prevention alternative, the user shall submit documentation as required by the Control Authority or the applicable pretreatment standard necessary to determine the compliance status of the user.

c. Sampling must be performed in accordance with the procedures required by PCC Chapters 53.10 through 53.70. Samples should be taken immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to the pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined wastewater formula in 40 CFR 403.6(e) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e), this adjusted limit along with supporting data shall be submitted to the City.

6. Certification. 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 operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the 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 of PCC Chapters 53.10 through 53.70.

8. Signature and Certification. All baseline monitoring reports must be signed and certified as required by this chapter.

### **53.30.020 Final Compliance Report**

A. Within 90 days following the date for final compliance of an existing significant industrial user with applicable pretreatment standards and requirements set forth in this title, in Federal categorical standards, or in a wastewater discharge permit, or, in the case of a new

source or a new user considered by the City to fit the definition of SIU, within 90 days following commencement of the introduction of wastewater into the sewage system, the affected user shall submit to the City a report containing the information outlined in PCC 53.30.010.

B. For users subject to equivalent mass or concentration limits established by the City in accordance with procedures established in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.

### **53.30.030 Periodic Compliance Report**

A. Any user that is required to have an industrial waste discharge permit and performs self-monitoring shall submit to the City during the months of June and December, unless the City has determined that the self-monitoring may be reduced to report no less frequently than once a year, or unless required more frequently in the pretreatment standard or by the DEQ, a report indicating the nature of the effluent over the previous reporting period. The frequency of monitoring shall be as prescribed within the industrial waste discharge permit. A reporting form will be provided by the City. At a minimum, users shall sample their discharge at least twice per year, unless required less frequently as described above. In cases where a local limit requires compliance with a best management practice or pollution prevention alternative, the user must submit documentation required by City to determine the compliance status of the user.

B. Periodic compliance reports are to be postmarked or received by the City by, on, or before the fifteenth of the month following the conclusion of the reporting period.

C. The report shall include a record of the concentrations (and mass if specified in the wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations and shall also include any additional information required by this title or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported. If a user sampled and analyzed more frequently than what was required by the City or by this title, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge during the reporting period. All laboratory reports providing data for organic and metal parameters shall include the following information: sampling date, sample location, date of analysis, parameter name, CAS number analytical method/number, method detection limit (MDL), laboratory practical quantitation limit (PQL), reporting units, and concentration detected. Analytical results from samples sent to a contracted laboratory must have information on the chain of custody, the analytical method, QA/QC results, and documentation of accreditation for the parameter.

D. The City may authorize the industrial user subject to a categorical pretreatment standard to forgo 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 waste and without any increase in the pollutant due to activities of the industrial user.

E. Any user subject to equivalent mass or concentration limits established by the City or by unit production limits specified in the applicable categorical standards shall report production data.

F. If the City calculated limits to factor out dilution flows or nonregulated flows, the user will be responsible for providing flows from the regulated process flows, dilution flows and nonregulated flows.

G. Flows shall be reported on the basis of actual measurement; provided, however, that the City may accept reports of average and maximum flows estimated by verifiable techniques if the City determines that an actual measurement is not feasible.

H. Discharges sampled shall be representative of the user's daily operations and samples shall be taken in accordance with this title. 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 City or the pretreatment standard necessary to determine the compliance status of the user.

I. The City may require reporting by users that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent, or determine any other factor which is related to the operation and maintenance of the sewage system.

J. The City may require self-monitoring by the user or, if requested by the user, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this section. If the City agrees to perform such periodic compliance monitoring, it may charge the user for such monitoring, based upon the costs incurred by the City for sampling and analyses. The user may be charged for the cost of resampling by the City in the event of a violation or violations. Any such charges shall be added to the normal sewer charge and shall be payable as part of the sewer bills. The City is under no obligation to perform periodic compliance monitoring for a user.

K. Users that have approved monitoring waivers as to specific pollutants must certify on each report that there has been no increase in the specific pollutant in the wastestream due to activities of the user. The certification shall be in the following form:

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 Parts], I certify that, to the best of my knowledge and belief, there has been no increase in the level of \_\_\_\_ [list pollutant(s)] in the wastewaters due to the activities at the facility since the filing of the most recent report.

#### **53.30.040 Pretreatment Standards Compliance Schedules**

A. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

B. No increment referred to in subsection (A) of this section shall exceed nine months.

C. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the City including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports.

#### **53.30.050 Notification of Significant Production Changes**

Any user operating under a wastewater discharge permit incorporating equivalent mass or concentration limits shall notify the City within two business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month.

#### **53.30.060 Hazardous Waste Notification**

Any user discharging more than 15 kilograms of hazardous waste as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) is required to provide a one-time notification in writing to the City, to the EPA Region 10 Office of Waste and Chemicals Management Director, and to DEQ. Any existing user exempt from this notification shall comply with the requirements contained herein within 30 days of becoming aware of a discharge of 15 kilograms of hazardous wastes in a calendar month or any discharge of acutely hazardous wastes to the City sewage system. The notification shall include:

A. The name of the hazardous waste as set forth in 40 CFR Part 261;

B. The EPA hazardous waste number; and

C. The type of discharge (continuous, batch, or other).

D. If an industrial user discharges more than 100 kilograms of such waste per calendar month to the sewage system, the notification shall also contain the following information to the extent it is known or readily available to the industrial user:

1. An identification of the hazardous constituents contained in the wastes;



2. An estimation of the mass and concentration of such constituents in the wastestreams discharged during that calendar month; and

3. An estimation of the mass of constituents in the wastestreams expected to be discharged during the following 12 months.

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

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

In the case of any notification made under this subsection, an industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

#### **53.30.070 Notice of Potential Problems**

A user shall notify the City immediately of all discharges and changes at the facility that could cause adverse impacts to the sewage system, including any slug loads. The notification shall include the concentration and volume and corrective action. Steps being taken to reduce any adverse impact should also be noted during the notification. Any user who discharges a slug load of pollutants shall be liable for any expense, loss, or damage to the sewage system, in addition to the amount of any fines imposed on the City under State or Federal law.

#### **53.30.080 Noncompliance Reporting**

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

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

#### **53.30.090 Notification of Changed Discharge**

All users shall promptly notify the City in advance of any substantial change in the volume or any change in character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, and the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12(p). **Substantial change** is defined to mean a change of 10 percent or more in discharge volume.

### **53.30.100 Reports from Unpermitted Users**

All users not required to obtain a wastewater discharge permit shall provide reports when and if required in writing by the City.

### **53.30.110 Record Keeping**

Users subject to the reporting requirements of this title, including documentation associated with best management practices, shall retain and make available for inspection and copying all records of information obtained pursuant to any monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least five years. This period shall be automatically extended for the duration of any litigation concerning the user or the sewage system or where the user has been notified in writing of a longer retention period by the City.

### **53.30.120 Annual Certification**

A. A facility determined to be a nonsignificant categorical industrial user must annually submit the following certification statement. This certification must accompany an alternative report required by the City:

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 (a) during the period from \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_ [months, days, year], the facility described as \_\_\_\_\_ [facility name] met the definition of a non-significant categorical Industrial User; (b) the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based upon information elsewhere in this document.

B. A non-discharging categorical industrial user must annually submit the following certification statement.

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 during the period from \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_ [months, days, year], (a) the facility described as \_\_\_\_\_ [facility name] met the definition of a non-discharging categorical Industrial User as described in PCC 53.10.015; (b) the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged categorical wastewater on any given day during this reporting period. This compliance certification is based upon information provided elsewhere in this document.

**Chapter 53.40**  
**SAMPLING AND ANALYTICAL REQUIREMENTS**

Sections:

53.40.010	General Requirements
53.40.020	Sampling
53.40.030	Analytical Requirements
53.40.040	City Monitoring

**53.40.010      General Requirements**

All sample preservation procedures, container materials, maximum allowable holding times and analytical techniques to be submitted as part of any application or report required by this division shall be performed in accordance with the procedures and techniques specified in 40 CFR Part 136. Alternatively, a contractor with the required protocols listed in an approved comprehensive quality assurance plan, may sample and analyze according to the protocols specified in that document.

**53.40.020      Sampling**

A.      Sampling for baseline monitoring reports (BMR) and 90-day compliance reports must include a minimum of four grab samples for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist. The City may authorize a lower minimum for facilities with historical sampling data. The number of grab samples for periodic compliance reports shall be the number the City determines to be necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

The City will determine on a case-by-case basis whether the user will be able to composite the individual grab samples. Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow or time-proportional composite sampling techniques, depending on circumstances. The City may waive flow-proportional composite sampling for any user that demonstrates that flow-proportional composite sampling is infeasible. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. 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 those cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

B. Samples shall be taken immediately downstream from any pretreatment facilities, immediately downstream from the regulated or manufactured process if no pretreatment exists, or at a location determined by the City and specified in the user's wastewater discharge permit. For categorical users, if other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the applicable categorical pretreatment standards. For other SIUs, for which the City has adjudged its local limits to factor out dilution flows, the user shall measure the flows and concentrations necessary to evaluate compliance with the adjudged pretreatment standard(s). In cases where a local limit requires compliance with a best management practice or pollution prevention alternative, the user must submit documentation required by the City to determine the compliance status of the user.

C. All sample results shall indicate the time, date and place of sampling and methods of analysis and shall certify that the wastestream sampled is representative of normal work cycles and expected pollutant discharges from the user. If a user sampled and analyzed more frequently than required in its wastewater discharge permit, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge as part of its self-monitoring report.

#### **53.40.030 Analytical Requirements**

All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

#### **53.40.040 City Monitoring**

The City will follow the procedures outlined in PCC 53.40.10 and 53.40.030 with sampling to monitor compliance.

**Chapter 53.50**  
**WASTEWATER COMPLIANCE MONITORING**

Sections:

53.50.010	Inspection and Sampling
53.50.020	Monitoring Facilities
53.50.030	Search Warrants
53.50.040	Vandalism
53.50.050	Confidential Information
53.50.060	Users in Significant Noncompliance

**53.50.010 Inspection and Sampling**

The City shall have the right to enter the facilities of any user to ascertain compliance with this title and any wastewater discharge permit or order. Users shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where a user has security measures in force that require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, on presentation of suitable identification, City representatives will be permitted to enter without delay for the purpose of performing their responsibility under this title.
- B. The City shall have the right to set up or require to be set up, monitoring and sampling devices on the user's property to monitor compliance with this title.
- C. Any obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the City and shall not be replaced unless and until authorized in writing by the City. The user is responsible for the cost of clearing obstructions.
- D. Unreasonable delays in allowing the City access to the user's premises shall be a violation of this title.

**53.50.020 Monitoring Facilities**

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

There shall be ample room in or near sampling facilities to allow accurate sampling and preparation of samples for analysis. The facility, including the sampling and measuring equipment, shall be maintained at all times in a safe and proper operating condition at the user's expense.

The City may require the user to install monitoring equipment as necessary. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications.

All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

#### **53.50.030 Search Warrants**

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

#### **53.50.040 Vandalism**

No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the sewage system.

#### **53.50.050 Confidential Information**

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from City inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. When requested and demonstrated by the user furnishing a product 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 public, except when disclosure is required by the Oregon Public Records Law. Information shall be made available immediately upon request to governmental agencies for uses related to the NPDES permit or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" will not be recognized as confidential information.

#### **53.50.060 Users in Significant Noncompliance**

The City shall publish annually, pursuant to 40 CFR 403.8(D)(viii) in a newspaper of general circulation in the City, a list of the industrial users that, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. For the purposes of this provision, a significant industrial user or any industrial user which violates Subsections (C), (D), or (H) of this section is in significant noncompliance if its violation meets one or more of the following criteria:

- A. Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of wastewater measurements taken during a six-month period exceed (by any magnitude) a numerical pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);
- B. Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils, grease, and 1.2 for all other pollutants except pH);
- C. 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 City believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public);
- D. Any discharge of pollutants that have caused imminent endangerment to the public or to the environment, or have resulted in the City's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to accurately report noncompliance; or
- H. Any other violation(s), which may include a violation of best management practices, which the City determines will adversely affect the operation or implementation of the local pretreatment program.

**Chapter 53.60**  
**ENFORCEMENT**

Sections:

53.60.010	Notice of Violation
53.60.020	Consent Orders
53.60.030	Show Cause Hearings
53.60.040	Compliance Orders
53.60.050	Cease and Desist Orders
53.60.060	Emergency Suspensions
53.60.070	Termination of Discharge Permit (Nonemergency)
53.60.080	Administrative Penalties
53.60.090	Injunctive Relief
53.60.100	Judicially Imposed Civil Penalties
53.60.110	Criminal Prosecution
53.60.120	Remedies Nonexclusive
53.60.130	Performance Bonds
53.60.140	Liability Insurance
53.60.150	Water Supply Discontinuance
53.60.160	Administrative Review of Permit
53.60.170	Public Nuisances
53.60.180	Informants
53.60.190	Contractor Listing
53.60.200	Affirmative Defense of Upset
53.60.210	Affirmative Defense – Lack of Knowledge
53.60.220	Affirmative Defense – Bypass

**53.60.010 Notice of Violation**

When the City finds that a user has violated or continues to violate any provision of PCC Chapters 53.10 through 53.70, a wastewater discharge permit or order, or any other pretreatment standard or requirement, in addition to other remedies provided by this title, the City may serve that user with a written notice of violation via certified mail. Within five days of the receipt of the notice, an explanation of the violation and a plan for the satisfactory correction and prevention, to include specific required actions, shall be submitted by the user to the City. Submission of the correction plan in no way relieves the user of liability of any violations occurring before or after receipt of that notice of violation. Nothing in this chapter shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

**53.60.020 Consent Orders**

The City may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Those documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document.



The documents shall have the same force and effect as administrative orders issued under this chapter and shall be judicially enforceable. Use of a consent order shall not be a bar against, or prerequisite for, taking any other action, against the user.

#### **53.60.030 Show Cause Hearing**

The City may, in addition to other remedies, order a user that has violated or continues to violate any provision of this title, a wastewater discharge permit or order, or any other pretreatment standard or requirement, to appear before the City and show cause why the proposed enforcement action should not be taken. The notice shall include the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 10 days before the hearing. The notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

#### **53.60.040 Compliance Orders**

When the City finds that a user has violated or continued to violate any provision of PCC Chapters 53.10 through 53.70, a wastewater discharge permit or order, or any other pretreatment standard or requirement, the City may, in addition to other remedies provided by this title, issue an order to the user responsible for the discharge, directing that the user come into compliance within a specified time. If the user does not come into compliance within the time specified in the order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices to minimize the amount of pollutants discharged to the sewer. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

#### **53.60.050 Cease and Desist Orders**

When the City finds that a user has violated (or continues to violate) any provision of PCC Chapters 53.10 through 53.70, a wastewater discharge permit or order, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the City may, in addition to other remedies provided by this title, issue an order to the user directing it to cease and desists all such violations and directing the user to:

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

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

### **53.60.060 Emergency Suspensions**

The City may immediately suspend a user's discharge permit when suspension is necessary to stop an actual or threatened discharge that reasonably appears to present or cause an imminent or substantial endangerment to the human health or welfare. The City may immediately suspend a user's discharge permit after notice and opportunity to respond if the discharge threatens to interfere with the operation of the sewage system or may endanger the environment.

A. Any user notified of a suspension of its discharge permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the city may take steps, including immediate severance of the sewer connection, to prevent or minimize damage to the sewage system or endangerment to any individuals. The City shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed unless the termination proceedings of this title are initiated against the user.

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

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

### **53.60.070 Termination of Discharge Permit (Nonemergency)**

Any user that violates the following conditions is subject to discharge permit termination:

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

The user will be notified of the proposed termination of its discharge permit and be offered an opportunity to show cause why the proposed action should not be taken. Exercise of this option by the City shall not be a bar to, or a prerequisite for, taking any other action against the user.

**53.60.080 Administrative Penalties**

A. When the City finds that a user has violated or continues to violate any provision of PCC Chapters 53.10 through 15.70, a wastewater discharge permit or order, or any other pretreatment standard or requirement, the City may assess a penalty against the user in an amount not to exceed \$25,000.00 per violation per day.

The penalty may be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, penalties shall be assessed for each day during the period of violation.

B. Users desiring to dispute the penalty must file a written request for the City to reconsider the penalty along with full payment of the penalty amount within 30 days of being notified of the penalty. Where a request has merit, the Public Works Director shall convene a hearing on the matter within 60 days of receiving the request from the user. In the event the user's appeal is successful, the payment, together with interest, shall be returned to the user. The City may add the costs of preparing administrative enforcement actions, such as notices and orders, to the penalty.

C. Issuance of an administrative penalty shall not be a bar against, or a prerequisite for, taking any other action against the user.

**53.60.090 Injunctive Relief**

When the City finds that a user has violated (or continues to violate) any provision of PCC Chapters 53.10 through 53.70, a wastewater discharge permit, or order, or any other pretreatment standard or requirement, the City may petition the Circuit Court for Crook County through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, to restrain or compel the specific performance of the wastewater discharge permit, order, or other requirement imposed by this title on activities of the user. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

**53.60.100 Judicially Imposed Civil Penalties**

A. Violation of any provision of PCC Chapters 53.10 through 53.70, a wastewater discharge permit or order, or any other pretreatment standard or requirement is a civil infraction with a maximum civil penalty of \$2,500 but no less than \$1,000.00 per violation, for each day the violation persists. The violation shall be enforced through the civil infraction procedures of this code. In a proceeding under this section, the city shall not be required to prove that the user has

acted intentionally, knowingly or willfully. The City shall be required to prove that the violation occurred, but the user's mental state shall not be an element of proving the violation.

B. The City may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the costs of any actual damage incurred by the City, in addition to the civil penalty.

C. In determining the amount of the civil penalty, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

D. Initiation of a civil infraction proceeding shall not be a bar against, or a prerequisite for, taking any other action against a user.

### **53.60.110 Criminal Prosecution**

A. Intentional, willful or knowing violation of any provision of PCC Chapters 53.10 through 53.70, a wastewater discharge permit or order, or any other pretreatment standard or requirement is a Class A misdemeanor, punishable by a fine of not more than \$2,500.00 per violation, per day, or imprisonment for not more than one year, or both.

B. Intentional, willful or knowing introduction of any substance into the sewage system that causes personal injury or property damage is a Class A misdemeanor punishable by a maximum penalty of not more than \$25,000.00 and/or one year in prison. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law. Nothing in this title precludes prosecution under other criminal statutes, including statutes pertaining to damage to public utilities or injury to property or persons.

C. The knowing making of any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to PCC Chapters 53.10 through 53.70, wastewater discharge permit or order, or falsification, tampering with, or knowingly rendering inaccurate any monitoring device or method required under this title is a Class A misdemeanor punishable by a fine of not more than \$2,500.00 per violation per day, or imprisonment for not more than one year, or both.

D. If the user is a corporation, the penalty provisions of ORS 161.655 shall be applicable. An employee, officer or agent of a corporation that commits a misdemeanor under this chapter may be prosecuted in that person's individual capacity, and, upon conviction, be personally subject to the penalties provided under this section if the person committed the offense intentionally, knowingly or willfully, notwithstanding that the permit was issued in the name of a corporation.

**53.60.120 Remedies Nonexclusive**

The remedies provided by this chapter are not exclusive remedies. The City reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement in response to pretreatment violations will generally be in accordance with the City’s enforcement response plan. However, the City reserves the right to take other action against any user when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

**53.60.130 Performance Bonds**

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

**53.60.140 Liability Insurance**

The City may decline to issue or reissue a wastewater discharge permit to any user that has failed to comply with any provision of this title, a wastewater discharge permit or order, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained insurance or other financial assurances satisfactory to the City, sufficient to restore or repair damage to the sewage system that may be caused by its discharge.

**53.60.150 Water Supply Discontinuance**

The City may discontinue water service to a user for violation of any provision of this title, a wastewater discharge permit or order, or any other pretreatment standard or requirement. Service will only recommence at the user’s expense, after it has satisfactorily demonstrated its ability to comply. The user shall be required to reimburse the City for expense incurred for disconnecting service. Any person, including the user, may petition the City to reconsider the terms of water supply severance within 30 days of termination or notice of termination.

**53.60.160 Administrative Review of Permit**

A wastewater discharge permit or notice of denial of the permit shall contain notice of the petition for review procedures that a person may follow to obtain administrative review of the permit decision.

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

B. A petition for review shall be in writing and filed with the City Manager’s office. In the petition, the appealing party must specify the name and address of the person filling the petition for review, and the reasons for this objection.

C. The City Manager shall conduct a hearing to determine the merits of the petition. Prior to the hearing, the person conducting the hearing shall notify the petitioner of the time and place of the hearing, and that the petitioner will have the opportunity to present evidence and make statements in support of the appeal. The person conducting the hearing shall have the sole discretion to determine the amount of time allowed for the appeal hearing. The person conducting the hearing may rely on any relevant evidence provided by the City staff or obtained by any other reasonable means. The decision on the hearing shall be in writing. If the City fails to make a determination on the petition within 30 days, the petition shall be deemed to be denied, and the permit denial or permit conditions appealed from shall be the final decision of the City.

D. The decision on the petition for review is the final decision of the City. The final decision may only be challenged under the Writ of Review provisions of Oregon Law.

### **53.60.170 Public Nuisances**

A violation of any provision of this title, a wastewater discharge permit, or order, or any other pretreatment standard or requirement, is a public nuisance and may be corrected or abated as provided by this code.

### **53.60.180 Informants**

The City may pay up to 100 percent of any collected fine or penalty imposed by any Court, to a maximum amount of \$1,000.00, to an informant, subject to reduction by the amount of any assessments required by State law.

### **53.60.190 Contractor Listing**

Users that have not achieved compliance with applicable pretreatment standards and requirements are not eligible to enter into contracts for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the City.

### **53.60.200 Affirmative Defense of Upset**

A. For the purposes of this section, **upset** means an exceptional incident in which there is unintentional and temporary noncompliance with the applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

B. An upset shall constitute an affirmative defense to an action brought under this chapter for noncompliance with applicable pretreatment standards if the requirements of subsection (C) of this section are met. The affirmative defense of “upset” shall not be applicable to enforcement actions under any provision of this title other than those provided in this chapter, although facts

indicating that an upset occurred may be considered in determining the appropriate remedy under enforcement proceedings other than those provided in this chapter.

C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

1. An upset occurred and the user can identify the cause(s) of the upset;
2. The facility was at the time operating in a prudent and workman-line manner and in compliance with applicable operation and maintenance procedures; and
3. The user has submitted the following information to the City within 24 hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days.
  - a. A description of the indirect discharge and cause of noncompliance;
  - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

D. In any enforcement proceeding under this title, the user seeking to establish the occurrence of an upset shall have the burden of proof.

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

F. Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of their treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

#### **53.60.210 Affirmative Defense – Lack of Knowledge**

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibited discharge standards if it can provide that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (A) a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or (B) no local limit exists, but the discharge did not change substantially in nature or constituent from the user's prior discharge when the City was regularly

in compliance with its WPCCF permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

### **53.60.220 Affirmative Defense – Bypass**

A. For the purposes of this section:

1. **Bypass** means the intentional diversion of wastestreams from any portion of a user's treatment facility.

2. **Severe property damage** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. "Severe property damage" does not mean economic loss caused by delays in production.

B. A user may allow any bypass to occur which does not cause applicable pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections (C) and (D) of this section.

C. Notice of Bypass.

1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the City at least 10 days before the date of the bypass, if possible.

2. A user shall submit oral notice to the City of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five 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 recurrence of the bypass. The City may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

D. Bypass Conditions.

1. Bypass is prohibited and the City may take an enforcement action against a user for a bypass unless:

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a



bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. The user submitted notices as required under subsection (C) of this section.

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

**Chapter 53.70**  
**WASTEWATER FEES**

Sections:

53.70.010

**53.70.010 Fees**

All persons receiving sewer services shall pay the fees established by Council resolution. Fees shall be set at an amount to cover the City's costs relating to the service for which the fee is paid. Fees may include:

- A. Fees for wastewater services. The fees for wastewater services may include a component or additional charge based on the strength of the discharge;
- B. Fees for wastewater discharge permit applications, including the cost of processing such applications;
- C. Fees for monitoring, inspection, and surveillance procedures including the cost of collecting and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- D. Fees for reviewing and responding to accidental discharge procedures and construction;
- E. Fees for filing appeals; and
- F. Other fees as the City may deem necessary to carry out the requirements of this title. These fees relate solely to the matters covered by this title and are separate from all other fees, fines, and penalties chargeable by the City.