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CHAPTER 4: SANITATION**CITY CEMETERY**

4.100 Cemetery Name. The municipal cemetery is hereby named Pilot Butte Cemetery.

4.102 Cemetery Description. The municipal cemetery is a parcel of land described as follows: SE ¼ of SE ¼ of Section 33, T. 17 S., R. 12 E., W.M., and all of Blocks 1, 2, 5, 6, 7, 8 and 9, Bend Park, and all of Blocks 124, 125, 126 and 127 in First Addition to Bend Park, a plat of said plot, so laid off, having been made and recorded in the Office of the County Clerk of Deschutes County. Said plat is officially designated as Section One of the Pilot Butte Cemetery.

4.103 Use of Cemetery. The cemetery shall be used for the burial of human bodies or ashes only. The burial of other than human remains is prohibited and may be removed by the sexton.

[Section 4.103 added by Ord. No. NS-1574 passed 10-20-92]

4.104 Rules and Regulations. The City Council may make such rules and regulations as are necessary for the proper care, protection, and government of the cemetery and for the guidance and control of the sexton, not in conflict with the provisions of this ordinance. It shall be the duty of the City Manager to see that the provisions of this ordinance and such rules and regulations as made by the City Council are properly enforced and obeyed. Fees for lots, monument and marker permits and permanent and annual maintenance shall be set by resolution of the City Council (see Bend Code 1.800 - 1.806).

4.106 Duties of Sexton.

- (1) The sexton shall keep a record showing:
 - (a) The name of the deceased.
 - (b) Date of burial or disinterment.
 - (c) Number of lot in which burial or from which disinterment is made.
 - (d) Number of interment permit.

- (2) The sexton shall keep an up-to-date map of the cemetery showing all burials properly marked on said map.

- 3) The sexton shall prepare all graves or cause them to be prepared, and shall attend to all duties appertaining to his office at the interment of bodies. The sexton shall, upon proper application, disinter, or cause to be disinterred, all bodies. All graves within the limits of the cemetery must be opened and closed by the sexton or designee. The sexton shall set or supervise the setting of all markers, stones, or monuments in the cemetery.

[Section 4.106(1)(d) amended by Ord. No. NS-1574 passed 10-20-92]

4.108 Conveyance of Lots. Every conveyance of a lot or grave space in the cemetery shall be by certificate executed by the mayor and attested by the recorder, under the seal of the City. Such conveyance shall only have the effect of giving the perpetual use of a lot for burial purposes subject to the laws of the state and the rules and regulations made by the City of Bend for the government thereof. Said certificate will not be issued until the price of the space or lot and permanent maintenance is paid in full.

4.110 Sale of Cemetery Spaces. The City Recorder is hereby empowered to sell spaces in the cemetery in either full spaces 5 ft x 10 ft, half spaces 5 ft x 5 ft or by quarter spaces 5 ft x 2.5 ft, at prices fixed by aforementioned price schedules. Half spaces and quarter spaces shall be sold in designated areas of the cemetery. When a lesser use of a space, such as for ashes, is desired in an area designated for full space sales, the price of a full space must be paid. No permit shall be issued nor interment allowed to anyone who owes the City for unpaid cemetery charges or has not made arrangements with the City for payment. Payment in full to the mortuary handling the burial at time of burial will constitute payment to the City or payment in full by the mortuary to the City for pre-arrangements. The City Recorder shall keep a record of all certificates issued, giving name of purchaser, date of sale, number of space and price of each space or spaces.

[Section 4.110 amended by Ord. No. NS-1574 passed 10-20-92]

4.111 Use of Burial Spaces. Any human remains may be buried in a full space. No more than two burials of ashes may be made in a quarter space, four burials of ashes in a half space, six burials of ashes in a three-quarter space or eight burials of ashes in a full space. Infants may be buried in any space sufficient to facilitate the burial as determined by the sexton but not less than a half space shall be used. Burials between spaces where certificates are owned by the same person or family may be made as determined by the sexton.

[Section 4.111 added by Ord. No. NS-1574 passed 10-20-92]

4.112 Application and Permit for Interment and/or Disinterment.

- (1) Whenever an interment is to be made, application must be made to the City Recorder, and a permit obtained therefor. The application must state the following:
 - (a) The full name of the deceased.
 - (b) Place of nativity, if known.
 - (c) Age, if known.
 - (d) Date and place of decease.
 - (e) Date of interment and location of grave.
 - (f) Name of undertaker.
 - (g) Outside size of coffin or box.
 - (h) Cause of death, if known.
- (2) Any person or persons desiring to disinter a body buried in the cemetery shall make application to the City Recorder, who shall, if everything is regular, issue a permit allowing such disinterment. In no case shall a permit be granted unless the party applying for a permit shall produce a certificate of title to lot or space or the records in the City Recorder's office show that the applicant is a certificate owner of a lot or space. The sexton shall not permit an interment or disinterment to be made in said cemetery until authorized to do so by the burial or disinterment permit mentioned above, which permit shall be kept on file. The owner of a permanent maintenance certificate for use of a lot may allow the interment of the remains of any person in their lot, but may not do so for compensation.
- (3) When a body is to be removed from one part of the cemetery to another, a permit must be obtained for such removal. When bodies are brought from other burial grounds for interment, the same procedures provided for the original burial of bodies shall be followed.

[Section 4.112 title and 4.112(2) amended by Ord. No. NS-1574 passed 10-20-92]

4.114 Records of Permits. A record shall be kept by the City Recorder of all burial permits issued by him, which record shall contain:

- (1) The name of the deceased.
- (2) Place of birth, if known.
- (3) Age, if known.
- (4) Date and place of death.
- (5) Cause of death, if known.
- (6) Number and date of said permit issued.
- (7) Name of undertaker.
- (8) Lot or grave space in which buried.

[Section 4.114(5) amended by Ord. No. NS-1574 passed 10-20-92]

4.116 Landscaping. The sexton is responsible for landscaping and maintaining the grounds of the cemetery in accordance with the cemetery landscaping plan. The

sexton may remove trees, plants or shrubs that become detrimental to cemetery lots or avenues or which pose a safety hazard to the public.

[Section 4.118 repealed by Ord. No. NS-1574 passed 10-20-92]

4.120 Permanent Maintenance Fund. A permanent maintenance cemetery fund shall be established and receipts from permanent maintenance sales shall be credited to this fund. This fund shall be safely invested with the approval of the City Council, and all interest earned by said fund shall be credited to the annual cemetery income account and used to help defray the cost of cemetery upkeep each year.

4.122 Monument and Marker Permits.

- (1) Monuments or markers may be placed in the cemetery, however, neither shall be placed therein until a permit has been obtained from the City Recorder. The permit shall state the dimensions of the monument or marker and the lot on which same is to be placed. The sexton shall not allow any monument or marker to be placed in the cemetery until the permit therefor has been exhibited to him.
- (2) Monuments shall be placed as follows:
 - (a) All monuments or markers shall be placed only after a permit is obtained and only where the sexton has marked for monument or marker placement.
 - (b) Upright monuments or markers may be placed where a full space is used in Blocks "A" through "T" inclusively except those areas designated for less than a full space. No upright monuments or markers may be used in Block "U" or any future blocks to be developed.
 - (c) There shall be no upright monuments or markers placed on any space less than full space.

- (d) Brass markers or monuments may be placed on any space and shall be set at sod level and the lettering shall be recessed (no monument shall be erected). All headstones will be 24 inches in width placed flat and set in concrete at sod level with one edge set to a surveyor's line. All vases shall be centered in the ends of said concrete and the length of the concrete shall extend 8 inches beyond each end of the marker. If no vases are used, a 6 inch extension on each end of the marker will suffice.
- (e) The City reserves the right to remove or cause to be removed any markers, stones, or monuments in the cemetery placed without the approval of the sexton.

[Section 4.122(2) added by Ord. No. NS-1574 passed 10-20-92]

PROHIBITION OF THE ADDITION OF FLUORIDE COMPOUNDS TO THE CITY OF BEND WATER SUPPLY

4.200 Fluoridation Prohibited. No person, persons, firm, corporation (municipal or otherwise), partnership, or any other entity shall cause any of the chemical fluorine (whether natural or artificial in the process known as fluoridation) to be added to the water supply of the City of Bend, nor shall any such person, persons, firm, corporation (municipal or otherwise), partnership, or any other entity install or attempt to install at any phase or point of the water system of the City of Bend any apparatus, equipment or machine designed to augment, assist or do the process of adding the chemical fluorine (whether natural or artificial) into the water supply of the City of Bend.

Source: Ordinance No. NS-462, approved by the voters of the City of Bend at a primary nominating election for the City of Bend on May 18, 1956, and repealed and readopted by the ordinance adopting this code.

DEVELOPING LOCAL ASSESSMENT DISTRICTS AND ASSESSING SEWER COSTS**4.300 Definitions.**

- (1) "Owner" or "property owner" shall include persons, firms or corporations having an interest in real property by deed or contract for purchase.
- (2) "Local improvements" shall have the same meaning as provided by state law (currently for ORS 223.001(9)), and shall include, but not be limited to sewer facilities such as sewer mains, interceptors, drains, manholes, pump stations and any other devices in the delivery of sewage to the sewer treatment plant; water facilities such as water mains, transmission lines, distribution lines, valves, hydrants, reservoirs, pump stations and any other device used in the delivery of water; streets (including alleys and any other public way); and sidewalks.
- (3) "Local improvement district" shall mean the property benefited by the installation of local improvements.

4.302 Authority to Create District. The City of Bend may create a local improvement district for the development of local improvements within the district either upon its own motion or upon the petition of the owners of one-half of the property within the district that will be benefited by the project.

4.304 Resolution of Intent. After receipt of a petition for creation of a local improvement district or upon its own motion the City Council shall declare its intention to create a local improvement district by resolution. The resolution shall:

- (1) Describe the boundaries of the local improvement district which shall include all of the property to be benefitted by the installation of local improvements, and
- (2) Describe the local improvements to be installed within the local improvement district, and
- (3) Recite the City's estimated cost of the project, and
- (4) Describe how the cost of the project will be paid, and
- (5) Recite the place, time and date when remonstrances to the project will be heard.

4.306 Notice of Resolution. Notice of the resolution directing creation of the local

improvement district shall be given as follows:

- (1) The resolution shall be published at least once in a newspaper of general circulation within the City of Bend at least 15 days before the date set by the resolution for hearing remonstrances, and
- (2) The City shall post the resolution as nearly as possible at each end and on each side of the local improvement district within five days after the passage of the resolution. The City shall file an affidavit of posting the resolution with the City.
- (3) The City shall mail a copy of the resolution to property owners within the district.

4.308 Remonstrance.

- (1) Any remonstrance to the project must be filed with the City within 15 days from the date the City posts a copy of the resolution directing creation of the local improvement district. If the remonstrance is signed by the owners of two-thirds or more of the square foot area within the local improvement district then the City Council shall not proceed with the project until it has reconsidered the project and its necessity.
- (2) After effective remonstrance and after reconsideration of the project the City Council may direct that the project continue according to the original resolution directing creation of the local improvement district, by modifying the project and amending the resolution or the City Council may abandon the project.

4.310 Manner of Doing Work. The project work may be done in whole or in part by the City, by contract, by any other governmental agency, or by any combination thereof. Work must be done according to City standards and specifications.

4.312 Assessment of Project Cost. The City Council in adopting a method of assessment for the project may:

- (1) Use any fair and reasonable method of determining the properties specially benefitted by the project and the extent of their benefit within the local improvement district.

- (2) Use any fair and reasonable method of apportioning the sum to be assessed between the properties determined to be specially benefitted.
- (3) Authorize the City to pay any part or all of the project.
- (4) The City shall apportion the project's costs to each parcel of land within the local improvement district and file this apportionment with the City.

4.314 Notice of Proposed Assessment. Prior to assessment of the project's cost to benefitted properties within the local improvement district the City Council shall cause the City to give notice of the proposed assessment to each property owner affected by the proposed assessment within the local improvement district as follows:

- (1) The notice of proposed assessment shall contain a description of the project; the total actual cost if the work is already done, or total estimated cost based upon the contract award, or estimated City departmental cost of the project; that part of the project's cost to be assessed against the property specially benefitted by the project; the record owner of each parcel of property to be assessed; the description of each parcel of property to be assessed and the amount of each assessment.
- (2) The time and place at which objections to the proposed assessment may be made and that all objections to the proposed assessment must be filed with the City prior to the time set for hearing objections.
- (3) The notice of proposed assessment shall be mailed to the owner of each parcel of property sought to be assessed at least 15 days before the time set for hearing objections.
- (4) The notice of proposed assessment shall be published at least once, giving 15 days' notice of the time and place at which objections to the proposed assessment may be made.
- (5) The notice of proposed assessment shall be posted at three public places within the City of Bend at least 15 days before the time at which objections to the proposed assessment may be made.

4.316 Objections to Assessment. Any objections to the proposed assessment must be filed with the City within 15 days after publication of the notice of proposed assessment in the newspaper.

4.318 Assessment by the City Council.

- (1) At the time and place specified in the notice of proposed assessment, the City Council shall consider all objections timely filed to the proposed assessment. The Council may adopt, correct, modify or revise proposed assessment and shall determine the amount of assessment to charge against each property to be assessed according to the special benefits accruing to the property from the project and shall, by resolution spread the assessment. The resolution spreading the assessment may be passed either before or after the actual work on the project is done.
- (2) Upon passage of the ordinance spreading the assessment, the City shall enter the assessment in the docket of City liens at which time the assessment shall become a lien upon the property assessed superior to any other lien as provided by law. The entry in the docket of City liens shall contain the description of each property liable for the assessed cost of the project, the name of the record owner, or the reputed owner thereof, or that the name of the owner is unknown, together with the sum assessed upon the property and the day of entering the same into the docket.

4.320 Notice of Assessment. Within ten days after the resolution spreading the assessments has been passed and entered in the docket of City liens, the City shall publish and mail a notice of assessment to the owners of the assessed property. The notice of assessment shall recite the date of the assessment resolution and shall state that upon failure of the owner of the property assessed to make application to pay the assessment in installments pursuant to the Bancroft Bonding Act (currently ORS 223.205 – 223.295) or upon the failure of the owner to pay the assessment in full within 20 days from the date of the assessment resolution, then interest will commence to run on the assessment and the property assessed will be subject to foreclosure; and notice of assessment shall further set forth a description of the property assessed, the name of the owner of the property, and the amount of each assessment.

4.322 Method and Effect of Giving Notice.

- (1) Whenever any notice by mail is required by this code section, it may be sent by either registered or certified mail and, if directed to the record owner of real property, shall be sent to the record owner's address as shown on the records of the Deschutes County Assessor. Recorded land contract purchasers shall receive notice in the same manner. Notice to any agent of the record owner or recorded land contract purchaser shall be considered notice to the principal.

- (2) Any mistake, error, omission, or failure with respect to such mailing shall not be jurisdictional or invalidate the assessment proceedings, but there shall be no foreclosure or legal action to collect until notice has been given by personal service upon the property owner, or, if personal service cannot be had, then by publication once a week for two successive weeks in a newspaper.
- (3) Publication of notice shall be done in a newspaper of general circulation within the City of Bend.

4.324 Foreclosure. Any assessment pursuant to this code section not paid within 20 days after it is entered in the docket of City liens, or which has not been bonded pursuant to the Bancroft Bonding Act (see ORS 223.205 - 223.295) may be foreclosed as provided in the Charter of the City of Bend and as otherwise provided by law.

- 4.326 Errors in Assessment Calculations.** Claimed errors in the calculation of assessments shall be directed to the City, who shall determine whether there has been an error in fact. If the City shall find that there has been an error in fact, the City shall recommend to the Council an amendment to the assessment ordinance to correct such error, and upon enactment of such amendment, the City shall make the necessary correction in the docket of City liens and send a correct notice of assessment by mail.
- 4.328 Deficit Assessment.** In the event that an assessment shall be made before the total cost of the project is ascertained and if it is found that the amount of the assessment is insufficient to pay the actual cost of the project, the Council may, by ordinance, declare and assess the deficit. Notice of proposed assessment for the deficit shall be given as provided in Bend Code 4.322. There shall be a hearing on objections to the proposed deficit assessment as provided in Bend Code 4.318. The deficit shall be assessed as provided in Bend Code 4.318 and 4.320.
- 4.330 Rebates.** If upon the completion of the project it is found that the assessment previously made is more than sufficient to pay the costs of the project, or at the end of any fiscal year in which the project is operated there is any net income after the payment of the operating costs, then the Council must ascertain and declare the same by resolution. When so declared, the excess amounts must be entered on the lien docket as a credit upon the appropriate assessments and shall be apportioned and credited to the respective property owners on the same basis and according to the same formula as the original assessment. In the event that an assessment has been paid, the person who paid it, or his legal representative or assigns, shall be entitled to the rebate.
- 4.332 Abandonment of Proceedings.** The Council shall have full power and authority to abandon and rescind proceedings for any local improvement district under this code section at any time prior to the final completion of the project.
- 4.334 Reassessment.** Whenever any assessment, deficit, or reassessment for any local improvement district made by the City has been, or will be, set aside, annulled, declared or rendered void, or its enforcement restrained by any court of this State, or any federal court having jurisdiction thereof, or when the City Council shall be in doubt as to the validity of any assessment, deficit assessment, or reassessment, or any part thereof, then the City Council may make a reassessment in the manner provided by the laws of the State of Oregon.

4.336 Separation of Assessments. Whenever property shall have been assessed in an entire tract, parcel or acreage and subsequently divided into smaller lots or parcels or divided among different owners, any person desiring to have the total assessment apportioned between said smaller lots or parcels may make an application to the City for a separation of the assessment and a determination of the amount due on the portion owned by him. All costs of any separation shall be paid by the person applying for the separation. Separation of assessment shall be solely at the discretion of the City, and upon such terms and conditions required by the City. No separation of an assessment shall become effective until the applicant has executed an agreement acknowledging the validity of the assessments as separated and waiving any and all errors and irregularities in the proceedings.

4.338 Curative Provisions. No assessment by this code section shall be rendered invalid by reason of a failure to have all of the information required to be in the resolution of intent, the assessment ordinance, the lien docket, or notices required to be published and mailed, nor by the failure to list the name of, or mail notice to, the record owner of any property as required by this code section, or by reason of any other error, mistake, delay, omission or irregularity, unless it appears that the assessment is unfair or unjust in its effect upon the person complaining; and the City Council shall have the power and authority to remedy and correct all such matters by suitable action and proceedings.

4.340 Sewers Outside City. The City shall have full power pursuant to ORS 224.010 to 224.170 to extend its local improvements outside the City; and to assess the costs of such local improvements outside the City to the property specially benefited by the local improvements whether such property is inside or outside the City. All such extensions of local improvements outside the City and assessments therefor shall be made according to the provisions of this code section and the provisions of ORS 224.010 to 224.170.

[Sections 4.300 through 4.388 amended by Ordinance No. NS-1668, adopted December 18, 1996]

[Section 4.300 through 4.388 amended by Ordinance No. NS-1688, adopted September, 1997]

AN ORDINANCE ADOPTING A REVISED WASTEWATER PRETREATMENT PROGRAM BY REPEALING AND REPLACING BEND CODE SECTIONS 4.400 THROUGH 4.490**GENERAL PROVISIONS****4.410 Purpose and Policy**

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

- A. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
- B. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
- C. To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- D. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public; and
- E. To improve the opportunity to recycle and reclaim wastewater and biosolids from the POTW.

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

4.411 Administration

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

4.412 **Definitions**

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

- (1) **Act or "the Act"**. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.
- (2) **Applicable Pretreatment Standards**. For any specified pollutant, City of Bend prohibitive standards, City of Bend 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.
- (3) **Approval Authority**. Oregon Department of Environmental Quality
- (4) **Authorized Representative of the User**.
 - (a) By a responsible corporate officer, if the Industrial User submitting the reports required by paragraphs (b), (d), and (e) of this Chapter is a corporation. For the purpose of this paragraph, a responsible corporate officer means:
 - (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
 - (ii) 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.
 - (b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;
 - (c) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee.
 - (d) The individuals described in paragraphs 1 through 3 above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City of Bend.
- (5) **Best Management Practice(s) (BMPs)**. A schedule of activities, prohibitions of

practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 4.415 (A) & (B) of this Ordinance. 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

- (6) **Biochemical Oxygen Demand (BOD)**. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° Celsius, usually expressed as a concentration [milligrams per liter (mg/l)]
- (7) **Bio-solids**. Solid or semisolid material obtained from treated wastewater, often used as fertilizer.
- (8) **Categorical Pretreatment Standard or Categorical Standard**. Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to a specific category of users and which appears in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- (9) **Categorical User**. A user regulated by one of EPA's Categorical Pretreatment Standards.
- (10) **Chemical Oxygen Demand**. A test to measure the amount of oxygen consumed where the oxygen is derived from chemicals.
- (11) **Color**. The optical density at the visual wave length of maximum absorption, relative to distilled water. One-hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.
- (12) **Composite Sample**. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
- (13) **Cooling Water/Non-Contact Cooling Water**. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Cooling water may be generated from any use, such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.

- (14) **Department of Environmental Quality (DEQ).** The Oregon Department of Environmental Quality (DEQ) is a regulatory agency whose job is to protect the quality of Oregon's Environment. DEQ is responsible for protecting and enhancing Oregon's water and air quality, for cleaning up spills and releases of hazardous materials, and for managing the proper disposal of hazardous and solid wastes.
- (15) **Director of Public Works.** The person designated by the City of Bend to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.
- (16) **Domestic User (Residential User).** Any waste discharger who contributes, causes, or allows the contribution of wastewater into the City of Bend POTW that is of a similar volume and/or chemical make-up to that of a residential dwelling unit. Discharges from a residential dwelling unit typically include up to 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.
- (17) **Environmental Protection Agency (EPA).** The U.S. Environmental Protection Agency or, where appropriate, the Director of the Region 10 Office of Water, or other duly authorized official of said agency.
- (18) **Existing Source.** A categorical industrial user, the construction or operation of whose facility commenced prior to the publication by EPA of proposed categorical pretreatment standards, which would be applicable to such source if and when the standard is thereafter promulgated in accordance with Section 307 of the Act.
- (19) **Existing User.** Any non-categorical user which was discharging wastewater prior to the effective date of this ordinance.
- (20) **Grab Sample.** A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.
- (21) **Indirect Discharge or Discharge.** Any liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.

- (22) **Interference.** A discharge which alone or in conjunction with a discharge or discharges from other sources, either: (1) inhibits or disrupts the POTW, its treatment processes or operations; (2) inhibits or disrupts its sludge processes, use or disposal; or (3) is a cause of a violation of the City of Bend's WPCF permit or of the prevention of biosolids use or disposal in compliance with any of the following statutory/ regulatory provisions or permits issued thereunder (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].
- (23) **Maximum Allowable Discharge Limit.** 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
- (24) **Medical Wastes.** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (25) **NAICS CODES (North American Industry Classification System Codes).**
New industry classification that replaces the current SIC.
- (26) **New Source.**
(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under Section 307 (c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
(a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
(b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Chapter (1) (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- (a) Begun, or caused to begin as part of a continuous on-site construction program
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- (27) **New User.** A "new user" is a user that is not regulated under federal categorical pretreatment standards but that applies to the City of Bend for a new building permit or occupies an existing building and plans to commence discharge of wastewater to the City of Bend's collection system after the effective date of this ordinance. Any person that buys an existing facility that is discharging non-domestic wastewater will be considered an "existing user" if no significant changes are made in the manufacturing operation.
- (28) **Pass Through.** A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City of Bend's WPCF permit. This includes an increase in the magnitude or duration of a violation.
- (29) **Permittee:** A person or user issued a wastewater discharge permit by The City of Bend.
- (30) **Person.** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, or local governmental entities.

- (31) **pH.** A measure of the acidity or alkalinity of a substance, expressed in standard units.
- (32) **Pollutant.** Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor].
- (33) **Pretreatment.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means (except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard).
- (34) **Pretreatment Requirement.** Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- (35) **Pretreatment Standards or Standards.** Prohibited discharge standards, categorical pretreatment standards, and local limits established by the City of Bend/POTW.
- (36) **Prohibited Discharge Standards or Prohibited Discharges.** Absolute prohibitions against the discharge of certain substances, which appear in Sections 4.415 (A) and (B) of this ordinance.
- (37) **Publicly Owned Treatment Works (POTW).** A "treatment works," as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by the City of Bend. 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. The term also means the City of Bend.
- (38) **Septic Tank Waste.** Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks, trucked waste and waste tanks.
- (39) **Sewage.** Human excrement and gray water (household showers, dishwashing operations, etc.) that is plumbed directly to the City of Bend sewer system.

- (40) **Sewer.** Any pipe, conduit ditch, or other device used to collect and transport sewage from the generating source.
- (41) **Shall, May.** "Shall" is mandatory, "may" is permissive.
- (42) **Significant Industrial User.**
- (1) A user subject to categorical pretreatment standards; or A user that:
 - (a) Discharges an average of 25,000 GPD or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown wastewater); or
 - (b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) Is designated as such by the City of Bend on the basis that it has a reasonable potential for adversely affecting the POTW'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, however, the Control Authority may determine that an Industrial User subject to categorical Pretreatment Standards under § 403.6 and 40 CFR chapter I, subchapter N is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - (i) the Industrial User, prior to Control Authority's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
 - (ii) the Industrial User annually submits the certification statement required in 403.12(q) together with any additional information necessary to support the certification statement; and
 - (iii) the Industrial User never discharges any untreated concentrated wastewater.
 - (3) Upon a finding that a user meeting the criteria in Subchapter (1) has no reasonable potential for adversely affecting the POTW's operation or for violating any applicable pretreatment standard or requirement, the City of Bend may at any time, on its own initiative or in response to a petition received from a user and in accordance with procedures established according to 40 CFR 403.8(f)(6)] determine that such user should not be considered a significant industrial user.

- (43) **Significant Noncompliance(SNC).** Significant noncompliance is defined in full in Section 4.468 of this ordinance.
- (44) **Sludge.** Semisolid material such as the type precipitated by sewage treatment.
- (45) **Slug Control Plan-40 CFR 403.8 (B)(6)(iv).** 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.
- (46) **Slug Load.** Any discharge at a flow rate or concentration which could cause a violation of the discharge standards in Section 4.415 of this ordinance or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.
- (47) **Standard Industrial Classification (SIC) Code.** A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.
- (48) **Storm Water.** Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- (49) **Total Suspended Solids.** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- (50) **Treatment Plant Effluent.** The discharge from the POTW into waters of the United States.
- (51) **User or Industrial User.** A source of a direct or indirect discharge to the sanitary sewer regulated under Section b), (c), or (d) of the Act. The source shall not include "domestic user" as defined herein.
- (52) **Wastewater.** Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- (53) **Wastewater Discharge Permit** An authorization or equivalent control mechanism issued by the City of Bend to users discharging wastewater to the POTW. The permit or control mechanism may contain appropriate pretreatment standards and requirements as set forth in this ordinance.

- (54) **Wastewater Treatment Plant or Treatment Plant.** That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

4.413 Abbreviations

The following abbreviations shall have the designated meanings:

BOD - Biochemical Oxygen Demand

CFR - Code of Federal Regulations

COD - Chemical Oxygen Demand

DEQ – Department of Environmental Quality

EPA - U.S. Environmental Protection Agency

GPD - gallons per day

l - liter

LEL - Lower Explosive Limit

mg - milligrams

mg/l - milligrams per liter

NPDES - National Pollutant Discharge Elimination System

O&M - Operation and Maintenance

POTW - Publicly Owned Treatment Works

RCRA - Resource Conservation and Recovery Act

SIC - Standard Industrial Classifications

SLUG CONTROL PLAN-Requirement to control slug discharges

SWDA - Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)

TSS - Total Suspended Solids

USC - United States Code

WPCF- Water Pollution Control Facility

GENERAL REQUIREMENTS**4.415 Prohibited Discharge Standards**

- A. **General Prohibitions:** No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- B. **Specific Prohibitions:** No user shall introduce or cause to be introduced into the POTW or the collections system the following pollutants, substances, or wastewater:
- 1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flash point of less than 140°F (60°C) 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 otherwise causing corrosive structural damage to the POTW or equipment;
 - 3) Solid or viscous substances in amounts which will cause obstruction of the flow in or to the POTW resulting in interference [but in no case solids greater than one half inch [$\frac{1}{2}$ "] or one and one quarter centimeters [1.25 cm] in any dimension;
 - 4) Pollutants, including oxygen-demanding pollutants (BOD, COD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
 - 5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 77°F (25°C) unless the Approval Authority, upon the request of the POTW, approves alternate temperature limits not to exceed 125 degrees;
 - 6) Petroleum oil, non-biodegradable cutting oil, products of mineral oil origin, or synthetic oils in amounts that will cause interference or pass through.
 - 7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW or collection 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 of Bend.
 - 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 which imparts color which cannot be removed by the treatment Process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment

plant's effluent. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life;

- 11) Wastewater containing any radioactive wastes or isotopes.
- 12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized in writing by the Water Reclamation Manager and the Director of Public Works;
- 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 Water Reclamation Manager and the Director of Public Works;
- 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 which may cause excessive foaming in the POTW or collection system;
- 17) Any liquid, solids, or gases which by reason of their nature or quantity are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion meter, at the point of discharge into the system (or at any point in the system), be more than five (5%) percent nor any single reading over ten (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 POTW to violate its WPCF and/or other disposal or discharge permits system permits.
- 20) Any wastewater, which in the opinion of the Water Reclamation Manager or the Director of Public Works can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the ground water 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 by any person in the business of collecting or pumping sewage, effluent, septic tank waste, or other wastewater unless said person has first obtained testing and approval as may be generally required by the City of Bend and paid all fees assessed for the privilege of said discharge.
- 22) Any hazardous wastes as defined in rules published by the State of Oregon or in 40 CFR Part 261.
- 23) Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA)
- 24) Sewage sludge, except in accordance with the City of Bend's WPCF 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 POTW.

4.416 Federal Categorical Pretreatment Standards

The National categorical pretreatment standards as amended and promulgated by EPA pursuant to the Act and as found at 40 CFR Chapter I, Subchapter N, Parts 405-471 and amendments hereto, are hereby incorporated and shall be enforceable under this ordinance.

4.417 State Requirements

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

4.418 Local Limits

In addition to categorical pretreatment standards referenced in other portions of this ordinance, 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 of Bend. The City of Bend may establish and revise from time to time standards for specific restricted substances. These standards shall be developed in accordance with 40 CFR Section 403.5 and shall implement the objectives of this Ordinance. These standards, including Best Management Practices (BMPs) are only applicable to significant industrial users. Standards established in accordance with this Chapter 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. Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this Part and section 307(d) of the Act.

Mass Limits

The city of Bend may impose mass limitations in addition to (or in place of) concentration-based limitations.

4.419 City of Bend's Right of Revision

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

4.420 Special Agreement

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

4.421 Dilution

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

4.422 Pretreatment Facilities

Users shall provide necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all applicable pretreatment standards and requirements set out in this ordinance within the time limitations specified by the EPA, the State, or the Director of Public Works, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the City of Bend 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 of Bend Water Reclamation Division, Industrial Pretreatment Coordinator for review and shall be accepted in writing to by the City of Bend Water Reclamation Division before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the City of Bend under the provisions of this ordinance.

4.423 Deadline for Compliance with Applicable Pretreatment Requirements

Compliance by existing sources covered by Categorical Pretreatment Standards shall be within 3 years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate Standard. The City of Bend 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 source 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 which is in non-compliance with any local limits shall be provided with a compliance schedule placed in an industrial wastewater permit to insure compliance within the shortest time feasible.

4.424 Additional Pretreatment Measures

- A. Whenever deemed necessary, 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 waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
- B. Each user discharging into the POTW greater than twenty five thousand (25,000) gallons per day or greater than five percent (5%) of the average daily flow into the POTW, whichever is less, shall install and maintain, on its property and at its expense, a suitable storage and flow-control facility to insure equalization of flow over a twenty four- (24)hour period. The facility shall have a capacity for at least fifty percent (50%) of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the Director of Public Works. 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 Director of Public Works, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand, except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Director of Public Works and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense. All Records for inspections, cleaning and repair must be maintained and readily available for review by City of Bend 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.

4.425 Slug Control Plan

- A. General provisions. All users, as required by the Director, shall provide protection from accidental or intentional discharges of materials, which may interfere with or cause pass through to the POTW, 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 such plans and operating procedures by the City shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of this chapter. The plan shall be posted and available for inspection at the facility during normal business hours. SIUs must notify the POTW immediately of any changes at their facilities, not already addressed in their slug control plan or other slug control requirements, which may affect the potential for a Slug Discharge.
- B. Specific provisions. The Director may require any user to develop, submit for approval, and implement such a plan. The need and requirement for a plan shall also be included in the users Wastewater Discharge Permit.
- C. A slug control plan shall address, at a minimum, the following:
1. Description of discharge practices, including non-routine batch discharges;
 2. Description of stored chemicals;
 3. Procedures for immediately notifying the POTW of any accidental or slug discharge, as required by Section 4.451 of this chapter; and
 4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.
- D. Users shall notify the City of Bend Water Reclamation Facility immediately after the occurrence of a slug or accidental discharge of substances regulated by this Ordinance. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected user shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the City of Bend on account thereof under state or federal law.

- E. Within five (5) days following an accidental discharge, the user shall submit to the Industrial Pretreatment Department a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this Ordinance or other applicable law.
- 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.

4.426 Septic Tank Wastes

- A. Septic tank waste may be introduced into the POTW only at a designated receiving structure within the treatment plant area, and at such times as are established by the Director of Public Works. Such wastes shall not violate this Chapter of the ordinance or any other requirements established or adopted by the City of Bend. Wastewater discharge licenses for individual vehicles to use such facilities shall be issued by the Department of Environmental Quality. Licenses must be current, up to date, in good standing, and have obtained testing and approval by the City of Bend before discharge will be allowed.
- B. Septic tank waste haulers may only discharge loads at locations specifically designated by the Director of Public Works. The Director of Public Works may require the hauler to provide a waste analysis of any load prior to discharge.
- C. Septic tank waste haulers must provide a City of Bend 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 characteristics of waste.

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

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

WASTEWATER DISCHARGE PERMITS**4.430 Wastewater Discharge Permitting: Existing SIU**

Any SIU that was discharging wastewater into the POTW prior to the effective date of this ordinance and that wishes to continue such discharges in the future shall, within sixty (60) days after notification by the Director of Public Works submit a permit application to the City of Bend in accordance with Section 4.433 of this ordinance and shall not cause or allow discharges to the POTW to continue after one hundred eighty (180) days after the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Director of Public Works.

4.431 Wastewater Discharge Permitting: New Source and New User

At least ninety (90) days prior to the anticipated start-up, any new source, which is a source that becomes a user subsequent to the proposal of an applicable categorical pretreatment standard that is later promulgated, and any new user considered by the City of Bend to fit the definition of SIU shall apply for a wastewater discharge permit and will be required to submit to the City of Bend at least the information listed in paragraphs (A)-(E) of Section 4.433. A new source or new user cannot discharge without first receiving a wastewater discharge permit from the City of Bend. New sources and new users shall also be required to include in their application information on the method of pretreatment they intend to use to meet applicable pretreatment standards. New Sources and new users shall give estimates of the information requested in paragraphs (D) and (E) of Section 4.433.

4.432 Wastewater Discharge Permitting: Extrajurisdictional Users

Any existing user who is located beyond the City of Bend limits and who is required to obtain a wastewater discharge permit shall submit a wastewater discharge permit application as outlined in Section 4.430. New Source and new users who are located beyond the City of Bend limits and who are required to obtain a wastewater discharge permit shall comply with Section 4.431.

4.433 Wastewater Discharge Permit Application Contents

All users required to obtain a wastewater discharge permit must submit, at a minimum, the following information. Categorical users submitting the following information shall have complied with 40 CFR §403.12(b).

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

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

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

(2) Non-Categorical User

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

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

E. Measurements of pollutants.**(1) Categorical User:**

- (i) The user shall identify the applicable pretreatment standards for each regulated or manufacturing process.
- (ii) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by the Categorical Pretreatment Standard or as required by the City of Bend) of regulated pollutants (including standards contained in Sections 4.415 through 4.418, as appropriate) in the discharge from each regulated or manufacturing process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the City of Bend or the applicable Standards to determine compliance with the Standard. Sampling performed shall conform to sampling and analytical procedures outlined in Section 4.457.
- (iii) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- (iv) Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR §403.6(e) for a categorical user, this adjusted limit along with supporting data shall be submitted as part of the application.

(2) Non-Categorical Significant Industrial User (SIU)

- (i) The user shall identify the applicable pretreatment standards for its wastewater discharge.
- (ii) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration in the discharge (or mass where required by the City of Bend) of regulated pollutants contained in Sections 4.415 through 4.418, 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 outlined in Section 4.457.

(iii) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

- F. **Certification**. The user shall submit a statement, worded as specified in Section 4.434, which 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 Section 4.448. The completion date in this schedule shall not be later than the compliance date established pursuant to Section 4.423 of this Ordinance.
- (1) Where the user's categorical Pretreatment Standard has been modified by a removal allowance (40 CFR §403.7), the combined waste stream formula (40 CFR §403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR §403.13) at the time the user submits the report required by this paragraph, the information required by paragraphs (F) and (G) of this Chapter shall pertain to the modified limits.
- (2) If the categorical Pretreatment Standard is modified by a removal allowance (40 CFR §403.7), the combined waste stream formula (40 CFR §403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR §403.13) after the user submits the report required by paragraphs (F) and (G) of this section, then a report containing 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 Director of Public Works and/ or the Water Reclamation Manager to evaluate the wastewater discharge permit application. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

4.434 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."

4.435 Wastewater Discharge Authorizations

The City of Bend may use alternate control mechanisms to control wastewater being discharged into the City's sewer system. These control mechanisms may include Best Management Practice (BMP) or a General Control Permit.

4.436 Wastewater Discharge Permit Decisions

The Director of Public Works will evaluate the data furnished by the user and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application, the Director of Public Works will determine whether or not to issue a wastewater discharge permit. Upon a determination to issue, the permit shall be issued within sixty (60) days of full evaluation and acceptance of the data furnished. The Director of Public Works may deny any application for a wastewater discharge permit.

4.437 Wastewater Discharge Permit Contents

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

- A. Wastewater discharge permits must contain the following conditions:
- (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
 - (2) A statement that the wastewater discharge permit is non-transferable without prior notification to and approval from the City of Bend, 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 to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the Discharge in accordance with 403.12(e)(2), 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) Requirement for immediate notification to the City of Bend where self-monitoring results indicate non-compliance;
 - (6) Requirement to report a bypass or upset of a pretreatment facility;
 - (7) Requirements to control slug discharges, if determined by the City to be necessary.
 - (8) Requirement to report immediately to the City of Bend all discharges, and facility changes, including slug loadings, that could cause problems to the POTW;
 - (9) Requirement for the SIU who reports non-compliance to repeat the sampling and analysis and submit results to the City of Bend within thirty (30) days after becoming aware of the violation.
 - (10) 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 POTW;
 - (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
 - (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
 - (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit;
 - (8) Other conditions as deemed appropriate by the Director of Public Works to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

4.438 Wastewater Discharge Permit Appeals

Any person, including the user, may petition the City of Bend to reconsider the terms of a wastewater discharge permit or the denial of a wastewater discharge permit within thirty (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 shall be deemed to be a waiver of the administrative appeal.
- B. A petition for review shall be in writing and served either in person or by certified mail to the City of Bend Industrial Pretreatment Coordinator. 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 of Bend Industrial Pretreatment Coordinator or designee 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 of Bend fails to make a determination on the petition within thirty (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 of Bend.
- E. The decision on the petition for review is the final decision of the City of Bend. The final decision may only be challenged under the Writ of Review provisions of Oregon Law, currently ORS 34.102.

4.439 Wastewater Discharge Permit Duration

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

4.440 Wastewater Discharge Permit Modification

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

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

- D. Information indicating that the permitted discharge poses a threat to the City of Bend's POTW, City of Bend personnel, or the receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge permit
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required 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.

4.441 Wastewater Discharge Permit Transfer

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

- A. States that the new owner and/or operator have no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. 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.

4.442 Wastewater Discharge Permit Revocation

Wastewater discharge permits may be revoked for, but not limited to, the following reasons:

- A. Failure to notify the City of Bend of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the City of Bend 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 of Bend 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; or
- M. If the City of Bend has to invoke its emergency provision as cited in Section 4.476 of the Ordinance.
- N. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

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

4.443 Wastewater Discharge Permit 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, in accordance with Section 4.433 of this ordinance, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit. A user whose existing wastewater discharge permit has expired and 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 of Bend issues or denies the new wastewater discharge permit. A user whose existing wastewater discharge permit has expired and who failed to submit its re-application in the time period specified herein will be deemed to be discharging without a wastewater discharge permit.

REPORTING REQUIREMENTS**4.445 Baseline Monitoring Reports**

- A. Within either one hundred and eighty (180) days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR §403.6(a)(4) (whichever is later) existing categorical users currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the City of Bend a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the City of Bend a report which contains the information listed in paragraph B, below. 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 waste stream 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 Bend) 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 requires compliance with a Best Management Practice 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 procedures set out in Section 4.457 of this ordinance.
- (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 set out in Section 4.448 of this ordinance.
- (8) **Signature and Certification**. All baseline monitoring reports must be signed and certified in accordance with Section 4.434 of this ordinance.

4.446 Final Compliance Report

- A. Within ninety (90) days following the date for final compliance of an existing Significant Industrial User with applicable pretreatment standards and requirements set forth in this ordinance, 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 of Bend to fit the definition of SIU, within 90 days following commencement of the introduction of wastewater into the POTW, the affected user shall submit to the City of Bend a report containing the information outlined in Paragraph (D)-(F) of Section 4.433.

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

4.447 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 of Bend 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 of Bend. 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 Industrial Pretreatment Department by on or before the 15th 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 ordinance or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported. If a user sampled and analyzed more frequently than what was required by the City of Bend or by this ordinance, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge during the reporting period. 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 forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User.
- E. Any user subject to equivalent mass or concentration limits established by the City of Bend or by unit production limits specified in the applicable categorical standards shall report production data as outlined in Section 4.446 (B).
- F. If the City of Bend calculated limits to factor out dilution flows or non-regulated flows, the user will be responsible for providing flows from the regulated process flows, dilution flows and non-regulated flows.
- G. Flows shall be reported on the basis of actual measurement, provided, however, that the City of Bend may accept reports of average and maximum flows estimated by verifiable techniques if the City of Bend 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 the requirements specified in Section 4.457. 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 of Bend 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 sewer system.
- J. The City of Bend 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 of Bend agrees to perform such periodic compliance monitoring, it may charge the user for such monitoring, based upon the costs incurred by the City of Bend for the sampling and analyses. The user may be charged for the cost of resampling by the City of Bend 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 of Bend is under no obligation to perform periodic compliance monitoring for a user.

4.448 Compliance schedules for meeting applicable pretreatment standards

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

4.449 Notification of Significant Production Changes

Any user operating under a wastewater discharge permit incorporating equivalent mass or concentration limits shall notify the City of Bend within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month.

4.450 Hazardous Waste Notification

Any user that is discharging more than 15 kilograms of hazardous wastes as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) is required to provide a one time notification in writing to the City of Bend, to the EPA Region 10 Office of Waste and Chemicals Management Director, and to the Department of Environmental Quality. 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 of Bend sewer system.

Such notification shall include:

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

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

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

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

4.451 Notice of potential problems, including accidental spills, slug loads

Any user shall notify the City of Bend immediately of all discharges and changes at the facility that could cause adverse impacts to the POTW, including any slug loads, as defined in Section 4.412. 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 POTW, in addition to the amount of any fines imposed on the City of Bend under state or federal law.

4.452 Non-Compliance Reporting

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

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

4.453 Notification of changed discharge

All users shall promptly notify the City of Bend 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 ten percent (10%) or more in discharge volume.

4.454 Reports from Unpermitted Users

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

4.455 Record Keeping

Users subject to the reporting requirements of this ordinance, 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 required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least five (5) years. This period shall be automatically extended for the duration of any litigation concerning the user or POTW, or where the user has been specifically notified of a longer retention period by the Director of Public Works.

4.456 Annual certification by Non-Significant Categorical Industrial Users (NSCIU) and Non-Discharging Categorical Industrial Users (NDCIU).

A facility determined to be Non-Significant Categorical Industrial User pursuant to Section 4.412 (42) must annually submit the following certification statement, signed in accordance with the signatory requirements in § 403.12(l). This certification must accompany an alternative report required by the City of Bend:

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

- (a) The facility described as _____ [facility name] met the definition of a non-significant categorical Industrial User as described in Section 4.412 (42); (b) the facility compiled 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 provided elsewhere in this document.
- (b) **Non-discharging Categorical Industrial User-** Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year] (a) The facility described as _____ [facility name] met the definition of a non-discharging categorical Industrial User as described in Section 4.412 (42); (b) the facility compiled 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

SAMPLING AND ANALYTICAL REQUIREMENTS**4.457 General Sampling and Analysis
Sampling and Analytical 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.

4.458 Sampling and Analytical Requirements for Industrial Users

- A. For sampling required in support of Baseline Monitoring Reports (BMR) and ninety (90) day compliance reports a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the City may authorize a lower minimum. For the reports required by Periodic Compliance Reports, the City shall require the number of grab samples necessary to assess and assure compliance by Industrial Users with Applicable Pretreatment Standards and Requirements.

The Director of Public Works shall require the number of grab samples necessary to assess and assure compliance by Industrial Users with Applicable Pretreatment Standards and Requirements. The Director of Public Works will determine on a case-by-case whether the user will be able to composite the individual grab samples. For all other pollutants, 24-hour composite samples must be obtained through flow or time-proportional composite sampling techniques depending on circumstances. The City of Bend 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 Control Authority, 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 & 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 such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

- B. Samples shall be taken immediately downstream from pretreatment facilities if such exist, immediately downstream from the regulated or manufacturing process if no pretreatment exists, or at a location determined by the City of Bend 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 waste stream 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 of Bend has adjusted its local limits to factor out dilution flows, the user shall measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standard(s). 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 waste stream 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.

4.459 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.

4.460 City of Bend Monitoring of User's Wastewater

The City of Bend will follow the same procedures as outlined in Section 4.458 and Section 4.459 when performing sampling.

COMPLIANCE MONITORING**4.461 Inspection and Sampling**

The City of Bend shall have the right to enter the facilities of any user to ascertain whether the purpose of this ordinance and any wastewater discharge permit or order issued hereunder is being met and whether the user is complying with all requirements thereof. Users shall allow the Director of Public Works or the designated representative ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

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

4.462 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 of Bend 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 of Bend may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. The Director of Public Works, whenever applicable, 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 such sampling facility 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 expense of the user.

The Director of Public Works 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.

4.463 Search Warrants

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

4.464 Vandalism

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

4.465 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 of Bend 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 of Bend 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 report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, except when disclosure is required by the Oregon Public Records Law (ORS 192.410 – 192.505). Information shall be made available immediately upon request to governmental agencies for uses related to the WPCF 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.

4.468 PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE

The City of Bend shall publish annually, pursuant to 40 CFR, 403.8 (D) (viii) in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of the industrial users which, during the previous twelve (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 paragraphs (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% or more of wastewater measurements taken during a six (6-)month period (by any magnitude) a numeric 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% or more of wastewater measurements taken for each pollutant parameter during a six-(6) 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 and 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 of Bend believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City of Bend 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 of Bend's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within 45 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report non-compliance; or
- H. Any other violation(s), which may include a violation of Best Management Practices, which the City of Bend determines will adversely affect the operation or implementation of the local pretreatment program.

ADMINISTRATIVE ENFORCEMENT REMEDIES**4.470 Notification of Violation**

When the Director of Public Works finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, in addition to other remedies provided by this ordinance, the Director of Public Works may serve upon that user a written Notice of Violation via certified letter. Within five (5) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Director of Public Works. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Chapter shall limit the authority of the City of Bend to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

4.471 Consent Orders

The Director of Public Works may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for non-compliance. Such documents will include specific action to be taken by the user to correct the non-compliance within a time period specified by the document.

Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 4.473 and 4.474 of this ordinance and shall be judicially enforceable. Use of a consent Order shall not be a bar against, or prerequisite for, taking any other action against the user.

4.472 Show Cause Hearing

The Director of Public Works may, in addition to other remedies provided by this ordinance, order [via a certified letter] a user which has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director of Public Works and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying 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 ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

4.473 Compliance Orders**Wastewater Pretreatment Program**

When the Director of Public Works finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director of Public Works may, in addition to other remedies provided by this ordinance, issue an order to the user responsible for the discharge directing that the user come into compliance within a time specified in the order. 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 non-compliance, including additional self-monitoring, and management practices designed 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.

4.474 Cease and Desist Orders

When the Director of Public Works finds that a user has violated (or continues to violate) any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Director of Public Works may, in addition to other remedies provided by this ordinance, issue an order to the user directing it to cease and desist all such violations and directing the user to:

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

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

4.475 Emergency Suspensions

The Director of Public Works may immediately suspend a user's discharge permit (after informal notice to the user) whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director of Public Works may also immediately suspend a user's discharge permit (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW or which presents or may present an endangerment to the environment.

- A. Any user notified of a suspension of its discharge 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 Director of Public Works shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director of Public Works shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City of Bend that the period of endangerment has passed, unless the termination proceedings in Section 4.476 of this ordinance 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 Director of Public Works prior to the date of any show cause or termination hearing under 4.472 and 4.476 of this ordinance.

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

4.476 Termination of Discharge Permit (Non-Emergency)

In addition to the provisions in Section 4.432 of this ordinance, 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 premises for the purpose of inspection, monitoring or sampling; or
- E. Violation of the pretreatment standards in Section 4.415 – 4.426 of this ordinance.

Such user will be notified of the proposed termination of its discharge permit and be offered an opportunity to show cause under Section 4.472 of this ordinance why the proposed action should not be taken. Exercise of this option by the City of Bend shall not be a bar to, or a prerequisite for, taking any other action against the user.

JUDICIAL ENFORCEMENT REMEDIES**4.480 Administrative Fines**

- A. When the Director of Public Works finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director of Public Works may fine such user in an amount not to exceed, \$6250

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

- B. Users desiring to dispute such fines must file a written request for the Director of Public Works to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the Director of Public Works shall convene a hearing on the matter within sixty (60) days of receiving the request from the user. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The City of Bend may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- C. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

4.481 Injunctive Relief

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

4.482 Civil Penalties

- A. A user which has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be guilty of an unclassified civil infraction, and liable to the City of Bend for a maximum civil penalty of \$2500 per violation, for each day the violation persists. Enforcement procedures shall be as provided in Bend Code Sections 1.700 through 1.736, except that the maximum fines shall be as established by this section, and not by Chapter 1.732. The Director of Public Works or his/her designee shall be authorized to initiate violation procedures pursuant to Bend Code Sections 1.700 through 1.736. In a proceeding under this section, the City of Bend 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 Director of Public Works may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City of Bend.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- D. Initiation of a civil infraction proceeding shall not be a bar against, or a prerequisite for, taking any other action against a user.

4.483 Criminal Prosecution

- A. A user which has intentionally, willfully or knowingly violated any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a Class A misdemeanor, punishable by a fine of not more than \$6,250 per violation, per day, or imprisonment for not more than one year, or both.

- B. A user which has intentionally, willfully or knowingly introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a Class A misdemeanor and be subject to a penalty of not more than \$6,250 and/or be subject to imprisonment for one year. 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 ordinance precludes prosecution under other criminal statutes, including statutes pertaining to damage to public utilities or injury to property or persons.
- C. A user which knowingly made any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this ordinance shall be guilty of a Class A misdemeanor, and upon conviction, be punished by a fine of not more than \$6,250 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 Section 4.482 of this ordinance, if the person committed the offense intentionally, knowingly or willfully, notwithstanding that the permit may be issued in the name of a corporation.

4.484 Remedies Non-exclusive

The provisions in Sections 4.468 through 4.490 of this ordinance are not exclusive remedies. The City of Bend reserves the right to take any, all, or any combination of these actions against a non-compliant user. Enforcement in response to pretreatment violations will generally be in accordance with the City of Bend's enforcement response plan. However, the City of Bend reserves the right to take other action against any user when the circumstances warrant. Further, the City of Bend is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

SUPPLEMENTAL ENFORCEMENT ACTION**4.485 Performance Bonds**

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

4.486 Liability Insurance

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

4.487 Water Supply Severance

Whenever a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply. The user shall be required to reimburse the City of Bend for expenses incurred for disconnect of services. Any person, including the user, may petition the City of Bend to reconsider the terms of water supply severance within thirty (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 shall be deemed to be a waiver of the administrative appeal.
- B. A petition for review shall be in writing and served either in person or by certified mail on the Bend City Manager. In its petition, the appealing party must specify the name and address of the person filing the petition for review, the reasons for this objection
- C. The City Manager or designee 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 of Bend fails to make a determination on the petition within thirty (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 of Bend.
- D. The decision on the petition for review is the final decision of the City of Bend. The final decision may only be challenged under the Writ of Review provisions of Oregon Law, currently ORS 34.102.

4.488 Public Nuisances

A violation of any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director of Public Works pursuant to Bend Code Sections 5.400 through 5.425. Any person(s) creating a public nuisance shall be subject to the provisions of the City of Bend Code 5.400 through 5.425 governing such nuisances, including reimbursing the City of Bend for any costs incurred in removing, abating, or remedying said nuisance.

4.489 Informant Rewards

The Director of Public Works may pay up to 100 percent (100%) of the collected fine or penalty to the informant, if collected in Bend Municipal Court, subject to reduction by the amount of any assessments required by state law. However, a single reward payment may not exceed one thousand dollars \$1,000.

4.490 Contractor Listing

Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the City of Bend. Existing contracts for the sale of goods or services to the City of Bend held by a user found to be in significant non-compliance with pretreatment standards or requirements may be terminated at the discretion of the City of Bend.

AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**4.492 Upset**

- A. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary non-compliance with applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought under Section 4.480 through 4.484 of this ordinance for non-compliance with applicable pretreatment standards if the requirements of paragraph C of this Chapter are met. The affirmative defense of "upset" shall not be applicable to enforcement actions under any provision of this ordinance other than those provided in Section 4.480 through 4.484, although facts indicating that an upset occurred may be considered in determining the appropriate remedy under enforcement proceedings other than those provided in Section 4.480 through 4.484 of this ordinance.
- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
- (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the POTW and treatment plant operator within twenty four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
 - (a) A description of the indirect discharge and cause of non-compliance;
 - (b) The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.
- D. In any enforcement proceeding under Section 4.480 through 4.484 of this ordinance, 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 non-compliance with applicable pretreatment standards under Section 4.480 through 4.484 of this ordinance.
- F. Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of 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.

4.493 Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for non-compliance with the prohibitions in Section 4.415 A and B(3) through (7) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or (b) no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City of Bend was regularly in compliance with its WPCF permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

4.494 Bypass

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

C. Notice of Bypass

- (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW at least ten (10) days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the City of Bend of an unanticipated bypass that exceeds applicable pretreatment standards within twenty four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass. The POTW may waive the written report on a case-by-case basis if the oral report has been received within twenty four (24) hours.

D. Bypass Conditions

- (1) Bypass is prohibited, and the POTW may take an enforcement action against a user for a bypass, unless
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The user submitted notices as required under paragraph (C) of this section.
- (2) The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

CHAPTER 4

BEND CODE

SANITATION CODE

WASTEWATER TRETAMENT RATES

4.495 Reserved

MISCELLANEOUS PROVISIONS**4.496 Pretreatment Charges and Fees**

The City of Bend may adopt reasonable fees for reimbursement of costs of setting up and operating the City of Bend's Pretreatment Program which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;
- D. Fees for filing appeals; and
- E. Other fees as the City of Bend may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the City of Bend; and
- F. Fees are established by the City of Bend Fees Resolution, as it may be amended from time to time

4.497 Severability

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

4.498 Conflicts

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of the inconsistency or conflict.

4.499 Effective Date

This ordinance, being necessary for the immediate protection of the health, welfare and safety of the citizens of Bend, shall be in full force and effect immediately following its passage.

[Sections 4.400 through 4.499 repealed and replaced by Ordinance NS-2069, adopted September 5, 2007]

USE OF PUBLIC AND PRIVATE SEWERS, DRAINS, PRIVATE SEWAGE DISPOSAL, THE INSTALLATION AND CONNECTION OF BUILDING SEWERS AND THE DISCHARGE OF ALL WASTEWATER EXCEPT INDUSTRIAL WASTEWATER INTO THE PUBLIC SEWER SYSTEM.

4.500 Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- (1) "Biochemical Oxygen Demand" (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20 centigrade expressed in terms of weight and concentration (milligrams per liter (MG/L)).
- (2) "Building Drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.
- (3) "Building Sewer" means the extension from the building drain to the public sewer or other place of disposal.
- (4) "City" means the City of Bend or the City Council of Bend.
- (5) "Combined Sewer" means a sewer receiving both surface runoff and sewage.
- (6) "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
- (7) "Industrial Discharge" means the discharge or the introduction of domestic pollutants from any source. This includes partial domestic and partial nondomestic wastewater, regulated under section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the City's collection and treatment system (including holding tank waste discharged into the system).
- (8) "Natural Outlet" means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.
- (9) "Person" means any individual, firm, company, association, society, corporation or group.

Use of Public and Private Sewers, Drains, Private Sewage Disposal, the Installation and Connection of Building Sewers and the Discharge of All Wastewater Except Industrial Wastewater Into the Public Sewer System.

- (10) "pH" means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (11) "Properly Shredded Garbage" means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1.2 inches (1.27 centimeters) in any dimension.
- (12) "Public Sewer" means a sewer in which all owners of abutting properties have equal rights, and is owned and controlled by the City of Bend.
- (13) "Sanitary Sewer" means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.
- (14) "Sewage" means a combination of the water-carried wastes from residences, business buildings, and institutions together with such ground, surface and storm waters as may be present.
- (15) "Sewage Treatment Plant" means any arrangement of devices and structures used for treating sewage.
- (16) "Sewage Works" means all facilities for collecting, pumping, treating and disposing of sewage.
- (17) "Sewer" means a pipe or conduit for carrying sewage.
- (18) "Slug" means any discharge of any wastewater which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15 minutes more than five times the average 24 hour concentration or flows during normal operation.
- (19) "Storm Drain" or Storm Sewer" means a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
- (20) "Suspended Solids" means a total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
- (21) "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

Use of Public and Private Sewers, Drains, Private Sewage Disposal, the Installation and Connection of Building Sewers and the Discharge of All Wastewater Except Industrial Wastewater Into the Public Sewer System.

4.502 Use of Public Sewers Required.

- (1) No person shall place, deposit, or permit any human or animal excrement, garbage or other objectionable waste to be deposited in any unsanitary manner on public or private property within the City of Bend, or on any City property outside the City.
- (2) No person shall discharge any sewage or other polluted waters into any natural outlet within the City of Bend, or in any area under the jurisdiction of the City, except where suitable treatment has been provided in accordance with this provision.
- (3) Except as hereinafter provided, no person shall construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
- (4) All property used for human occupancy or employment which is within 100 feet of a public sanitary sewer shall be hooked up to the sewer provided the property can be served by the sewer from a public street, alley or right of way or a sewer easement. The property shall be hooked up to the public sanitary sewer within 90 days after the date official notice is given to hook up (unless extended pursuant to City policy). The hookup shall be accomplished in compliance with all applicable Federal, State and City laws, regulations and policies.
- (5) City water service may be terminated to any property which has not hooked up to the sewer system in compliance with the provisions of this ordinance or any other applicable law, rule or regulation.

4.504 Private Sewage Disposal.

- (1) Where a public sanitary sewer is not available under the provisions of Bend Code 4.502 (4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this ordinance and the regulations of the State of Oregon Environmental Quality Commission.
- (2) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit from the State Department of Environmental Quality and the County Health Department.
- (3) A private sewage disposal system shall not be used until the installation is completed to the satisfaction of the State Department of Environmental Quality and the County Health Department.

Use of Public and Private Sewers, Drains, Private Sewage Disposal, the Installation and Connection of Building Sewers and the Discharge of All Wastewater Except Industrial Wastewater Into the Public Sewer System.

- (4) The type, capacities, location and layout of a private sewage disposal system shall comply with all regulations of the Department of Environmental Quality of the State of Oregon. No septic tank or cesspool shall be permitted to discharge into any natural outlet.
- (5) At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with Bend Code 4.500 - 4.520, and any septic tanks, cesspools or other private sewage disposal facilities shall be abandoned and filled with suitable material unless otherwise specifically permitted by City.
- (6) The owner shall operate and maintain the private sewage facilities in a sanitary manner at all times.
- (7) Nothing in this section shall be construed to interfere with any additional requirements that may be imposed by the State or County Health Officer.

4.506 Building Sewers and Connections.

- (1) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.
- (2) The owner or his agent shall make application on a form furnished by the City of Bend. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgement of the City.
- (3) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- (4) A separate and independent building sewer shall be provided for each building.
- (5) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City, to meet all requirements of this ordinance.

Use of Public and Private Sewers, Drains, Private Sewage Disposal, the Installation and Connection of Building Sewers and the Discharge of All Wastewater Except Industrial Wastewater Into the Public Sewer System.

- (6) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall conform to the requirements of the State Building and Plumbing Codes and applicable rules and regulations of the City of Bend. In the absence of code provisions or in amplification thereof, the "Standard Specifications for Public Works Construction" 1970, Oregon Chapter American Public Works Association shall apply.
- (7) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- (8) The connection of the building sewer into the public sewer shall conform to the requirements of the State Building and Plumbing Codes and applicable rules and regulations of the City of Bend. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and material must be approved by the City before installation.
- (9) The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to a public sewer. The connection shall be made under the supervision of the City.
- (10) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City of Bend.

4.508 Use of the Public Sewers.

- (1) No person shall discharge, or cause to be discharged, any storm water, surface water, ground water, roof runoff, subsurface drainage, unreasonably large amounts of uncontaminated cooling water or unpolluted process waters to any sanitary sewer.
- (2) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the City. Industrial cooling water or unpolluted process waters may be discharged, on approval of the City and State of Oregon, D.E.Q., to a storm sewer or natural outlet.

Use of Public and Private Sewers, Drains, Private Sewage Disposal, the Installation and Connection of Building Sewers and the Discharge of All Wastewater Except Industrial Wastewater Into the Public Sewer System.

- (3) No person shall discharge, or cause to be discharged, any of the following described waters or wastes to any public sewers:
- (a) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
 - (b) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the effluent disposal system of the sewage treatment plant, including but not limited to cyanides in excess of 0.5 mg/1 as CN in the wastes as discharged to the public sewer.
 - (c) Any water or wastes having a pH lower than 5.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
 - (d) Solid or viscous substances in quantities or of such size capable of causing obstruction of the flow in sewers, or other interference with the proper operation of the sewage works including, but not limited to: Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.
- (4) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the City that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the effluent disposal system, or can otherwise endanger life, limb, public property or constitute a nuisance. In review of the acceptability of these wastes, the City will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:

Use of Public and Private Sewers, Drains, Private Sewage Disposal, the Installation and Connection of Building Sewers and the Discharge of All Wastewater Except Industrial Wastewater Into the Public Sewer System.

- (a) Any liquid or vapor having a temperature higher than 149 F. (65 C.).
- (b) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: Grease, garbage with particles greater than one-half inch ($\frac{1}{2}$ ") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble, dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding, or polishing wastes.
- (c) Any waters or wastes containing iron, chromium, copper, zinc, lead and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the City for such materials.
- (d) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the City as necessary, after treatment of the composite sewage, to meet the requirements of the State or Federal Government.
- (e) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the State or Federal regulations.
- (f) Any waters or wastes having a pH in excess of 11.0.
- (g) Materials which exert or cause:
 - (1) Unusual concentrations or inert suspended solids, (including but not limited to: Fullers earth, lime slurries, and lime residues) or of dissolved solids (including, but not limited to, sodium chloride and sodium sulfate).
 - (2) Excessive discoloration (including, but not limited to, dye wastes and vegetable tanning solutions).

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- (3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
- (4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- (h) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of the State and Federal agencies having jurisdiction over discharge to the receiving water.
- (5) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 5(4), and which in the judgment of the City, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City may:
 - (a) Reject the wastes,
 - (b) Require pretreatment to an acceptable condition for discharge into the public sewers,
 - (c) Require control over the quantities and rates of discharge, or,
 - (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges.

If the City permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City and subject to the requirements of all applicable codes, ordinances and laws.

- (6) Grease, oil and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be located and the capacity sized to the approval of the City.

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- (7) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- (8) All measurement, tests and analysis of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property.

4.510 Protection from Damage.

- (1) No unauthorized person shall break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewage works.

4.512 Powers and Authority of Inspectors.

- (1) The City shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this ordinance.
- (2) While performing the necessary work on private properties referred to in Section 4.512 (1), the City shall observe all safety rules applicable to the premises established by the company.
- (3) The City shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspections, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

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4.520 Penalties and Costs.

- (1) Penalties. An infraction of an order of the City Council or willful or negligent failure to comply with any provision of this ordinance, and the orders, rules, regulations and permits issued hereunder, is subject to a Class A misdemeanor. Each day on which a violation shall occur or continue shall be deemed a separate and distinct violation.
- (2) Costs and Fees. In addition to the penalties provided herein, the City may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation by appropriate civil suit at law against the person found to have violated this ordinance or the orders, rules, and regulations, and permits issued hereunder.
- (3) Falsifying Information. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance, or Industrial Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance, shall, upon conviction, be punished as a Class A Misdemeanor.

[Sections 4.408(33), 4.410, 4.442, 4.452(7) and (8) amended by Ord. NS-1975, passed June 15, 2005]

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