

ORDINANCE NO. 09-18 N.S.

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF RICHMOND AMENDING
CHAPTER 12.18 OF THE MUNICIPAL CODE OF THE CITY OF RICHMOND. THIS
ORDINANCE IMPROVES THE ESTABLISHED FATS, OILS AND GREASE (FOG)
PROGRAM AND THE FOG PROGRAM ENFORCEMENT PROVISIONS**

The Council of the City of Richmond do ordain as follows:

Section I. **Amendment of Chapter 12.18.**

Chapter 12.18 of the Municipal Code of the City of Richmond is hereby amended to read as follows:

Chapter 12.18
DISCHARGE TO THE WASTEWATER TREATMENT SYSTEM

Sections:

- 12.18.010 - General provisions.
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- 12.18.010.2 - Administration.
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 12.18.010.1 - Purpose and policy.

This chapter sets forth the requirements of users of the Richmond Municipal Sewer District Water Pollution Control Plant and its collection system (collectively, called the POTW in this chapter) for the City of Richmond (City), and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (Title 33 of the United States Code [USC] Section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] Part 403). The objectives of this chapter are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with its operations;
- B. To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters or atmosphere, or otherwise be incompatible with the POTW;
- C. To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

- D. To promote reuse and recycling of wastewater, sludge, gases, and other byproducts from the POTW;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW;
- F. To prevent sanitary sewage overflows as a result of grease obstructions that subject the City and the public to adverse health risks, State Water Resources Control Board penalties, and civil lawsuits, impact service continuance, and diminish stormwater quality;
- G. To comply with San Francisco Bay Regional Water Quality Control Board regulations for establishing a sanitary sewer overflow plan that also includes a fats, oils, and grease control plan.
- H. To enable the City to comply with its National Pollutant Discharge Elimination System (NPDES) permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

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

12.18.010.2 - Administration.

Except as otherwise provided herein, the City Manager shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the City Manager may be delegated by the City Manager to a duly authorized City employee.

12.18.010.3 - Authority.

The City of Richmond is regulated by several agencies of the United States Government and the State of California, pursuant to the provisions of Federal and State law. Federal and State laws (including, but not limited to: 1) Federal Water Pollution Control Act, commonly known as the Clean Water Act (22 USC § 1251 et seq.); 2) California Porter Cologne Water Quality Act (California Water Code § 13000 et seq.; 3) California Health and Safety Code sections 25100—25250; 4) Resource Conservation and Recovery Act of 1976 (42 USC § 6901 et seq.); and 5) California Government Code Sections 54739—54740) grant to the City of Richmond the authority to regulate and/or prohibit, by the adoption of an ordinance, and by issuance of special permits, general permits, and special agreements, the discharge of any way directly or indirectly to the POTW. Said authority includes the right to establish limits, conditions, prohibitions; to establish flow rates, or prohibit flows discharged to the POTW; to require the development of compliance schedules for the installation of equipment systems and materials by all users; and to take all actions necessary to enforce its authority, whether within or outside the City of Richmond Municipal Sewer District boundaries, including those users that are tributary to the City of Richmond Municipal Sewer District or within areas for which the City of Richmond has contracted to provide sewerage services.

12.18.010.4 - Powers.

The City Manager is authorized to:

- A. Issue, modify, and reissue waste discharge permits, general discharge permits, and special agreements;
- B. Suspend, terminate, and revoke waste discharge permits, general discharge permits and special agreements;
- C. Require the installation and maintenance of pretreatment facilities and/or monitoring facilities and equipment;
- D. Require installation of equipment necessary to protect the POTW from possible discharges (i.e., spill, rain);
- E. Conduct inspections of facilities, including, but not limited to, inspecting and copying records;
- F. Require monitoring and reporting of all discharges to the POTW;
- G. Monitor the quality of wastewater entering the sewer system;

- H. Require the development of spill containment plans and reporting of accidental discharges;
- I. Require the development of a slug control plan (per 40 CFR 403.8);
- J. Deny, approve, or approve with conditions, new or increased discharges or change in the quality or characteristics of discharges, when such discharges do not meet applicable pretreatment requirements as specified in 40 CFR Part 403.8;
- K. Take enforcement actions against those who violate or cause violations of this chapter or discharge permit conditions. These actions may include, but are not limited to the following:
 - (1) Issuing letters of warning;
 - (2) Issuing notices of violation;
 - (3) Issuing administrative orders;
 - (4) Issuing emergency suspensions;
 - (5) Initiating and conducting noncompliance meetings;
 - (6) Initiating and conducting administrative hearings;
 - (7) Petitioning the court(s) for injunctions or civil penalties;
 - (8) Signing criminal penalties;
 - (9) Terminating services;
 - (10) Requiring payment of administrative fines, or violation charges;
 - (11) Revoking and/or suspending the user's waste discharge permit, general permit or special agreement;
 - (12) Establishing policies and standards applicable for discharges or potential discharges of non-domestic wastewater.
 - (13) Establishing best management practices applicable as local limits.

12.18.010.5 - Definitions and abbreviations.

- A. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.
 - (1) "Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC Section 1251 et seq.
 - (2) "Administrator" means the EPA Administrator or their designee.
 - (3) "Applicant" means any person who applies for an individual or coverage under a wastewater discharge permit.
 - (4) "Approval authority" means the San Francisco Bay Regional Water Quality Control Board.
 - (5) "Authorized or duly authorized representative of the user" means:
 - (a) If the user is a corporation:
 - (i) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (ii) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated user, 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 wastewater discharge permit 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 government facility: a director or highest official appointed or designated to oversee the operations and performance of the activities of the government facility, or their designee.
 - (d) The individuals described in subsections (a) through (c) above, may designate a duly authorized representative, if the authorization is in writing. The authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the facility. This authorization must be made in writing by the principal executive officer or ranking elected official, and submitted to the City prior to or together with any document being submitted.
- (6) "Authorized inspector" means an environmental compliance inspector designated by the City Manager.
 - (7) "Batch discharge" means an authorized, intermittent discharge of pollutants from sources such as, but not limited to: process tanks, holding tanks, rinse tanks, or treatment systems.
 - (8) "Beneficial uses" means any and all use of the waters of the State that are protected against quality degradation, including but not limited to domestic, municipal, and agricultural use, use for industrial supply, power generation, recreation, aesthetic enjoyment, or navigation, use for the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other beneficial uses, tangible and intangible, as specified by Federal or State law or other applicable regulations.
 - (9) "Best management practices (BMPs)" means the schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR Part 403.5(a)(1) and (b). BMPs 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
 - (10) "Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration in milligrams per liter (mg/L).
 - (11) "Bypass" means the intentional diversion of waste streams from any portion of a user's treatment facility as listed in Section 12.18.130.3.
 - (12) "California Code of Regulations (CCR)" means the publication of the State of California government containing finalized State regulations.
 - (13) "Categorical industrial user" means any user subject to a categorical pretreatment standard or categorical standard.
 - (14) "Categorical pretreatment standard" or "categorical standards" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 USC Section 1317) that apply to a specific category of users and that appear in 40 CFR, Chapter I, Subchapter N, Parts 405—471.
 - (15) "Chemical oxygen demand" means a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
 - (16) "City" means the City of Richmond.
 - (17) "City Manager" means the person, designated by the City, who is in charge with certain duties and responsibilities by this chapter. The term also means a duly authorized representative of the City Manager.
 - (18) "Class IA industrial user" means any user subject to a categorical pretreatment standard or categorical standard who discharges more than 25,000 gallons of industrial wastewater per day to the POTW.
 - (19) "Class IB industrial user" means any user subject to a categorical pretreatment standard or categorical standard who discharges less than 25,000 gallons of industrial wastewater per day to the POTW.

- (20) "Class IIA industrial user" means any nondomestic user of the City's wastewater disposal system who has an industrial wastewater discharge flow of twenty-five thousand (25,000) gallons or more per average work day, or may, in the opinion of the City, have a reasonable potential for adversely impacting, either singularly or in combination with other contributing industries, the City's treatment plant or the ability of the City to meet the objectives of this chapter or for violating any pretreatment standard or requirement.
- (21) "Class IIB industrial user" means any nondomestic user of the City's wastewater disposal system who has an industrial wastewater discharge flow of less than twenty-five thousand (25,000) gallons per average work day to the POTW, or may, in the opinion of the City, have a reasonable potential for adversely impacting, either singularly or in combination with other contributing industries, the City's treatment plant or the ability of the City to meet the objectives of this chapter or for violating any pretreatment standard or requirement.
- (22) "Class III industrial user" means any nondomestic user who may, in the opinion of the City, have an impact on the City's ability to meet the objectives of this chapter. This impact may be of a lesser degree than Class IIA and IIB industrial user due to the volume, characteristics, or the nature of the process producing the waste.
- (23) "Class IV industrial user" means any nondomestic user who produces wastewater originating from the operation of a commercial business.
- (24) "Class V industrial user" means any food handling facility that generates fats, oils and grease that is not previously classified.
- [(24.1)] "Class VI industrial user" means an industrial user that is granted a permit that authorizes temporary discharges to the City's sanitary sewer system from sources that are not able to be discharged to a municipality's storm drain system, including but not limited to: groundwater remediation system, groundwater monitoring well purge water, construction dewatering, pool discharges, tank test water, temporary discharges of foundation drains or area drains while permanent solutions for pollutants are developed, and water from reservoirs to enable cleaning. The special discharge permit will specify the conditions for acceptance of the wastewater.
- (25) "Code of Federal Regulations (CFR)" means the publication of the United States government that contains finalized Federal regulations.
- (26) "Combined waste stream formula" means the formula as outlined in the general pretreatment regulations of the Clean Water Act, Title 40 Code of Federal Regulations for determining wastewater discharge limitations for categorical users and significant industrial users who[se] effluent is a mixture of regulated, unregulated and diluted wastewater as defined in the formula.
- (27) "Commercial garbage/food grinder" means a mechanical unit for pulverizing wastes before discharging into the public sewer system by a commercial user.
- (28) "Commercial user" means any source of wastewater discharged originating from a commercial business
- (29) "Compliance point" means the discharge point in a control mechanism such as a wastewater discharge permit where local limits or categorical limits are monitored.
- (30) "Compliance schedule" means a schedule of remedial measures included in a permit or in an enforcement order, including a sequence of interim requirements (for example, actions, operations, or milestone events) that lead to compliance with the Clean Water Act and regulations.
- (31) "Control authority" means the POTW if the POTW's pretreatment program submission has been approved in accordance with the requirements of 40 CFR Part 403.11.
- (32) "Control mechanism" means a waste discharge permit, a general waste discharge or a special agreement.
- (33) "Cooling water" means the water discharges from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

- (34) "Daily maximum" means the arithmetic average of all effluent samples for a pollutant collected during a calendar day.
- (35) "Daily maximum limit" means the maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- (36) "Dilution" means increase in use of process water, potable water or any other means to dilute a discharge as a partial or complete substitute for adequate treatment to achieve discharge requirements.
- (37) "Discharge point" means the compliance point in the control mechanism (waste discharge permit) where local limits are monitored.
- (38) "Domestic wastewater" means:
- (a) Wastewater from residential activities including but not limited to: kitchens, bath and laundry facilities; or
 - (b) Wastewater from personal sanitary conveniences (toilets, showers, bathtubs, fountains, noncommercial sinks, and similar structures) of commercial, industrial or institutional buildings, provided that the wastewater exhibits characteristics that are similar to wastewater from normal residential activities. Specifically excluded from this definition is wastewater from commercial, industrial or institutional laundries or food service/preparation facilities.
- (39) "Environmental Compliance Inspector" means an inspector designated by the City Manager who under the management and/or supervision of the Environmental Services Manager is tasked to perform specific duties and responsibilities of the Environmental Compliance Program.
- (40) "Environmental Protection Agency (EPA)" means: the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.
- (41) "Environmental Services Manager" means the person designated by the City Manager who manages the specific duties and responsibilities of the Environmental Compliance Program.
- (42) "Existing source" means any source of discharge that is not a "new source."
- (43) "Fats, oils, and grease (FOG)" means any organic polar compound derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules.
- (44) "Food handling facility (FHF)" means any user that prepares and/or serves food for commercial use or sale. This includes, but is not limited to, restaurants, cafes, lunch counters, cafeterias, hotels, hospitals, convalescent homes, factory or school kitchens, catering kitchens, bakeries, grocery stores with food preparation and packaging, meat cutting and preparation (excluding grocery stores with only food warming operations), meat packing facilities, and other food handling facilities not listed above where FOG may be introduced to the sewer system and cause line blockages and sewer overflows. This is a process of concern for the City.
- (45) "Grab sample" means a sample that is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.
- (46) "Grease collection service" means a qualified company that specializes in cleaning grease interceptors and/or hauling grease to an approved waste site.
- (47) "Grease separators," or sometimes called separators, means a multi-compartment device designed to retain grease from one or more fixtures. It shall be designed outside of the food establishment and shall be of a size and design in compliance with all current building and plumbing codes adopted by the City.
- (48) "Grease trap" means a device designed to retain grease from one to a maximum of four fixtures.

- (49) "Hearing office" means the person designated by the City Manager to conduct an administrative hearing.
- (50) "Indirect discharge" or "discharge" means the introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c) or (d) of the Act.
- (51) "Industrial user" means any source of industrial wastewater discharge.
- (52) "Industrial wastewater" means all water-carried wastes, excluding domestic and commercial wastewater, resulting from the processing or manufacture of goods or products.
- (53) "Instantaneous limit" means the maximum concentration 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.
- (54) "Interference" means a discharge, that alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City's NPDES permit or the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, 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 Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
- (55) "Lateral" means a sewer pipeline conveying wastewater from the premises of a user to the City's sewer system. The term "lateral" includes "building sewer" and "service lateral."
- (56) "Lift station" means a sump used to allow sewage to accumulate to a level where it is pumped to the sewer system at a higher elevation.
- (57) "Local limit" means the specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR Part 403.5(a)(1) and (b).
- (58) "Medical waste" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (59) "Monthly average" means the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharge" measured during that month.
- (60) "Monthly average limit" means the highest allowable average of the "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
- (61) "National Pollutant Discharge Elimination System (NPDES) permit" means a permit issued pursuant to Section 402 of the Act, as amended (33 USC Section 1251 et seq.), which regulates discharges from the POTW to a water of the United States.
- (62) "National pretreatment standard," "pretreatment standard," or "standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307 (b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits.
- (63) "New source" means:
- (a) 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 the proposed pretreatment standards under Section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

- (i) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (iii) The production or wastewater generating processes of the building, structure, facility, or installation are structurally independent from 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.
- (b) 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 subsection (a)(i) or (ii) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- (i) Begun, or caused to begin, as part of a continuous on-site construction program:
 - (a) Any placement, assembly, or installation of facilities or equipment; or
 - (b) 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
 - ii. 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.
- (64) "Non-domestic user" means a user that does not discharge domestic waste to the City's sewer system (POTW).
- (65) "Nuisance" means anything which is injurious to health or is indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property or which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.
- (66) "Pass through" means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit, including an increase in the magnitude or duration of a violation.
- (67) "Permittee" means a user that is permitted by the City with a wastewater discharge permit.
- (68) "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- (69) "pH" means a measure of acidity or alkalinity of a solution, expressed in standard units.
- (70) "Pollutant" means a dredged spoil; solid waste; incinerator residue; filter backwash; sewage; garbage; sewage sludge; munitions; medical wastes; chemical wastes; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; municipal, agricultural and industrial wastes; and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

- (71) "Premises" means any land, including any improvements or structures thereon, which is owned, used, occupied, leased or operated by a user and from or on which discharges occur or wastewater is created.
- (72) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the 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.
- (73) "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- (74) "Pretreatment standards" or "standards" means all mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- (75) "Process of concern" (for the purpose of the City's FOG control program) means any business that has FOG on-site or generally any business process that introduces material or matter into wastewater.
- (76) "Process wastewater" means any water, which during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product from any industrial, commercial, institutional, or agricultural source.
- (77) "Prohibited discharge standards" or "prohibited discharges" means absolute prohibitions against the discharge of certain substances. These prohibitions appear in Section 12.18.020.1 of this chapter.
- (78) "Publicly owned treatment works (POTW)" means a treatment works, as defined by Section 212 of the Act (33 USC Section 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant. In this chapter, the POTW is the Richmond Municipal Sewer District Water Pollution Control Plant, its collection system, and is the control authority.
- (79) "Septic tank waste" means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- (80) "Sewage" means human excrement and gray water (household showers, dishwashing operations, etc.).
- (81) "Significant industrial user (SIU)." Except as provided in paragraphs (c) and (d) below, an SIU means:
- (a) An industrial user subject to categorical pretreatment standards; or
 - (b) An industrial user that:
 - (i) Discharges an average of twenty-five thousand (25,000) gallons per day (gpd) or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown wastewater);
 - (ii) Contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW; or
 - (iii) Is designated as such by the City on the basis that it has reasonable potential for adversely affecting POTW operation or for violating any pretreatment standard or requirement.
 - (c) The City may determine that an industrial user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than an SIU on a finding that the industrial user never discharges more than one hundred (100) gpd of total categorical wastewater (excluding sanitary, non-contact cooling, and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

- (i) The industrial user, prior to the City's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
 - (ii) The industrial user annually submits the certification statement required in Section 12.18.060.14(B) (see 40 CFR Part 403.12(q)) of this chapter, together with any additional information necessary to support the certification statement; and
 - (iii) The industrial user never discharges any untreated concentrated wastewater.
- (d) Upon a finding that a user meeting the criterion in Section 12.18.010.5(A)(80)(b) of this chapter has no reasonable potential for adversely affecting POTW operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered an SIU.
- (82) "Significant noncompliance (SNC)" (as defined in 40 CFR Part 403.8(f)(2)(vii)) means a compliance status in which any action of conduct by a user which constitutes a violation of any applicable regulation and which consists of one or more of the following:
- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR Part 403.3(l);
 - (b) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six- (6-) month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
 - (c) Any other violation of a pretreatment standard or requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the City determines has caused, alone or in combination with other discharges, interference, or pass through (including endangering the health of City personnel or the general public);
 - (d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge;
 - (e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
 - (f) Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety- (90-) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
 - (g) Failure to accurately report noncompliance; or
 - (h) Any other violation or group of violations, which may include a violation of BMPs, which the City determines will adversely affect the operation or implementation of its pretreatment program.
- (83) "Slug load" or "slug discharge" means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 12.18.020.1 of this chapter. A slug discharge is any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the City's regulations or local limits or the user's wastewater discharge permit conditions.
- (84) "Special discharge permit" means a permit that authorizes temporary discharges to the City's sanitary sewer system from sources that are not able to be discharged to the

City's storm drain system, including but not limited to: groundwater remediation system, groundwater monitoring well purge water, construction dewatering, pool discharges, tank test water, temporary discharges of foundation drains or area drains while permanent solutions for pollutants are developed, and water from reservoirs to enable cleaning. The special discharge permit will specify the conditions for acceptance of the wastewater.

- (85) "Standard industrial classification (SIC)" means the system of classifying industries as identified in the *Standard Industrial Classification Manual* (1972), Office of Management and Budget and as may be amended.
- (86) "Standard specifications" means the document entitled, *Standard Specifications for Sewer Construction*, which includes the specifications and drawings to be used in design and construction of laterals and sewers.
- (87) "State" means the State of California, including any department or agency thereof.
- (88) "Stormwater" means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- (89) "Total suspended solids" or "suspended solids" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.
- (90) "Trucked waste" means any wastewater discharged to the POTW from motor vehicles, including but not limited to: pumper trucks, tanker trucks, recreational vehicles (RVs), carpet cleaners, or mobile food businesses. This does not include wastewater from activities associated with firefighting.
- (91) "United States Code (USC)" means the codification by subject matter of the general and permanent laws of the United States.
- (92) "User" means any person who discharges or has the potential to discharge wastewater or process wastewater to the POTW (see definition of "person").
- (93) "Waste" means sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for the purposes of, disposal.
- (94) "Wastewater" means liquid and water-carried industrial wastes and sewage from residential dwelling, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- (95) "Wastewater discharge permit" means a permit issued to a user that allows it to discharge wastewater to the POTW.
- (96) "Water pollution control plant (WPCP)" means the same as "publicly owned treatment works" (POTW), see above.
- (97) "Water softener" means a unit using an ion-exchange process requiring sodium chloride ion to regenerate the exchange bed.
- (98) "Waters of the State" means any water, surface or underground, including saline waters within the boundaries of the State as defined in 40 CFR Part 230.3(s).

B. The following abbreviations, as used in this chapter, shall have the meanings hereinafter designated.

(1)	BMP	Best management practices
(2)	BMR	Baseline monitoring report
(3)	BOD	Biochemical oxygen demand
(4)	CA	Control authority
(5)	COD	Chemical oxygen demand
(6)	CCR	California Code of Regulations

(7)	CFR	Code of Federal Regulations
(8)	CIU	Categorical industrial user
(9)	EPA	United States Environmental Protection Agency
(10)	ERP	Enforcement response plan
(11)	FOG	Fats, oils, and grease
(12)	gpd	gallons per day
(13)	IU	Industrial user
(14)	LOW	Letter of warning
(15)	mg/l	milligrams per liter
(16)	NOV	Notification of violation
(17)	NPDES	National Pollutant Discharge Elimination System
(18)	NSCIU	Non-significant categorical industrial user
(19)	POTW	Publicly owned treatment works
(20)	RCRA	Resource Conservation and Recovery Act
(21)	SIU	Significant industrial user
(22)	SNC	Significant noncompliance
(23)	TSS	Total suspended solids
(24)	USC	United States Code
(25)	WPCP	Richmond Municipal Sewer District Water Pollution Control Plant (see POTW)

12.18.020 - General sewer use requirements.

12.18.020.1 - Prohibited discharge standards.

- A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other Federal, State, or local pretreatment standards or requirements.
- B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR Part 261.21. Closed-cup flashpoint values may be found in the National Institute of Occupational Safety and Health (NIOSH) *Pocket Guide to Chemical Hazards* ;
 - (2) Wastewater having a pH less than 6.0 or greater than 10.0, or wastewater having any other corrosive property capable of causing damage or hazard to the POTW, City structures, equipment, humans, or animals.
 - (3) Solid or viscous substances, such as, but not limited to, grease, garbage with particles greater than one-half (0.5) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshing, entrails, whole blood, feathers, ashes, cinders, sands, 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, glass grindings, or polishing wastes, in amounts which will cause obstruction of the flow in the POTW resulting in interference.
 - (4) Pollutants, including oxygen-demanding pollutants (BOD, 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 greater than 140 degrees F (60 degrees C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C).
- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral origin, in amounts that will cause interference or pass through.
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) Trucked or hauled pollutants, except at discharge points designated by the City Manager in accordance with Section 12.18.030.5 of this chapter.
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair.
- (10) Pollutants that impart color, which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations.
- (12) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the City Manager.
- (13) Sludges, screenings, or other residue from the pretreatment of industrial wastes.
- (14) Medical wastes, except as specifically authorized by the City Manager in a wastewater discharge permit.
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test.
- (16) Detergents, surface-active agents, or other substances that might cause excessive foaming in the POTW.
- (17) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the sanitary sewer system, or at any point in the POTW, of more than five percent (5%) as hexane or any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. LEL values may be found in the NIOSH *Pocket Guide to Chemical Hazards* . Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.
- (18) Unauthorized access to the POTW assets that cause pass through and/or interference. Examples of such activities include but are not limited to: accessing POTW collection system manhole to drain stormwater from construction site(s) or flooded properties; introducing soil (dirt), mud, or debris into sanitary sewer; or any other unauthorized access to the collection system.
- (19) Any waste defined as hazardous, by any definition set forth in Federal and/or State statutes or regulations, unless such waste has been delisted or decertified by the appropriate Federal or State agency, and/or a variance has been granted by the appropriate Federal or State agency, including provisions for discharge to the POTW, and said variance provisions are approved by the City Manager.

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

12.18.020.2 - National categorical pretreatment standards.

Users must comply with the categorical pretreatment standard found in 40 CFR Chapter I, Subpart N, Parts 405-471.

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City Manager may impose equivalent concentration or mass limits in accordance with subsections 12.18.020.2(F) through (G).

- B. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the City Manager may convert the limits to equivalent limitations expressed either as a mass of pollutant discharged per day or effluent concentration for the purposes of calculating effluent limitations applicable to individual industrial users.
- C. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the City Manager shall impose an alternate limit in accordance with 40 CFR Part 403.6(e).
- D. A CIU may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with the following subsections of this section:
 - (1) Categorical pretreatment standards may be adjusted to reflect the presence in the industrial user's intake water in accordance with this section. Any industrial user seeking to obtain credit for intake pollutants must make an application to the City. Upon request of the industrial user, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of Section 12.18.020.2(D)(2) are met.
 - (2) Criteria.
 - (a) Either (i) The applicable categorical pretreatment standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) the industrial user demonstrates that the control system it proposes or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.
 - (b) Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
 - (c) Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.
 - (d) Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The City may waive this requirement if it finds that no environmental degradation will result.
- E. When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that the City convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the City Manager. The City may establish equivalent mass limits only if the industrial user meets all the conditions set forth in Section 12.18.020.2(E)(1)(a) through (e).
 - (1) To be eligible for equivalent mass limits, the industrial user must:
 - (a) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its wastewater discharge permit;
 - (b) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute of treatment;
 - (c) Provide sufficient information to establish the user's actual average daily flow rates for all waste streams, based on data from a continuous effluent flow monitoring device, as well as the user's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

- (d) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and
 - (e) Have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits;
- (2) An industrial user subject to equivalent mass limits must:
- (a) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - (b) Continue to record the user's flow rates through the use of a continuous effluent flow monitoring device;
 - (c) Continue to record the user's production rates and notify the City Manager whenever production rates are expected to vary by more than twenty percent (20%) from its baseline production rates determined in Section 12.18.020.2(F) of this chapter. Upon notification of a revised production rate, the City Manager will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
- (3) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to Section 12.18.020.2(E)(1)(a) of this chapter so long as it discharges under an equivalent mass. When developing equivalent mass limits, the City Manager:
- (a) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the industrial user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;
 - (b) Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
 - (c) May retain the same equivalent mass limit in subsequent wastewater discharge permits terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 12.18.020.6 of this chapter. The industrial user must also be in compliance with Section 12.18.130.3 of this chapter regarding the prohibition of bypass.
- F. The City Manager may convert the mass limits of the categorical pretreatment standards of 40 CFR Parts 414, 419, and 455 to concentration limits for the purposes of calculating limitations applicable to individual industrial users. The conversion is at the discretion of the City Manager.
- G. Once included in its wastewater discharge permit, the industrial user must comply with the equivalent limitations developed in this section in lieu of the promulgated categorical pretreatment standards from which the equivalent limitations were derived.
- H. Many categorical pretreatment standards specify one limit for calculating maximum daily discharge limitations and second limit for calculating maximum monthly average, or 4-day average, limitations. Where such categorical pretreatment standards are being applied, the same production or flow figure shall be used in calculating both the average and maximum equivalent limitation.
- I. Any industrial user operating under a wastewater discharge permit incorporating equivalent mass or concentration limits calculated from a production-based categorical pretreatment standard shall notify the City Manager within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the City Manager of such anticipated change will be required to meet the mass or concentration limits in its

wastewater discharge permit that were based on the original estimate of the long-term average production rate.

12.18.020.3 - State pretreatment standards.

Users must comply with all applicable State pretreatment standards. In the event that either state or federal requirements and standards for discharges to the POTW are more stringent than the limitations, requirements, and standards set forth in this chapter, the most stringent standard or requirement shall apply. Modifications of the Federal or State standards and requirements which are more stringent than the limitations, standards, and requirements as set forth in this chapter and are promulgated subsequent to the adoption of this chapter shall be applied to discharges to the POTW at such time and in such manner as is set forth in Section 12.18.050.4 of this chapter.

12.18.020.4 - Local limits.

- A. The City is authorized to establish local limits pursuant to 40 CFR Part 403.5(c).
- B. No user shall discharge wastewater to the POTW which exhibits any characteristic specifically prohibited by an action of the City Council, or any wastewater containing constituents in excess of any specific constituent level limitations as may be set by the City Council. Effective January 1, 2015, specific pollutant limitations regarding waste characteristics and/or constituent limits may be adopted by resolution. The specific pollutant limitations adopted by resolution shall be daily maximum limits unless otherwise specified.
- C. Any violation of a specific pollutant limitation as may be set forth in this chapter or by a City Council resolution shall subject the user to the same administrative actions, penalties, and/or enforcement actions as would be available for any other violation of this chapter. The term "ordinance" as used elsewhere within this chapter, shall be read to include the specific pollutant limitations as set forth in this chapter or as may be set forth by resolution.
- D. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following (daily maximum limit):

160 ⁽¹⁾ mg/L	Ammonia as N
0.11 mg/L	Arsenic (total recoverable)
1.0 mg/L	Benzene
220 mg/L	BOD ₅
0.05 mg/L	Cadmium (total recoverable)
0.27 mg/L	Chromium (total recoverable)
1.37 mg/L	Chloroform
0.65 mg/L	Copper (total recoverable)
0.26 mg/L	Cyanide (total)
0.3 mg/L	Lead (total recoverable)
0.005 mg/L	Mercury (total)
0.27 mg/L	Nickel (total recoverable)
90 mg/L	Oil & grease (total)
0.030 mg/L	Selenium (total recoverable)
0.25 mg/L	Silver (total recoverable)
0.35 mg/L	Sulfide (total as S)
1.0 mg/L	Tetrachloroethylene
1.0 mg/L	Toluene
430 mg/L	Total suspended solids
0.004 mg/L	Tributyltin
1.0 mg/L	Xylene
1.0 mg/L	Zinc (total recoverable)

(1) The local limit for West County Landfill leachate is 100 pounds per day (lb/day). All other industrial users must achieve a local limit of 160 mg/L.

The above limits apply at the point where the wastewater is discharged to the WPCP. The City Engineer may impose mass limitations in addition to the concentration-based limitations above.

E. The City may develop BMPs, by ordinance or in individual or general wastewater discharge permits, to implement local limits and the requirements of Section 12.18.020.1.

12.18.020.5 - Right to revision.

The City reserves the right to establish, by ordinance or in individual or general wastewater discharge permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this chapter.

12.18.020.6 - Dilution.

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

12.18.030 - Pretreatment of wastewater.

12.18.030.1 - Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, Local Limits, and the prohibitions set out in Section 12.18.020 of this chapter within the time limits specified by EPA, the State, or the City, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the City Manager for review, and shall be acceptable to the City Manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this chapter.

12.18.030.2 - Fats, oils, and grease.

A. Fats, Oils, and Grease Program.

(1) Fats, Oils, and Grease Interceptors.

(a) FOG separators and grease interceptors shall be provided, at the user's expense, where, in the opinion of the City Manager, they are necessary for proper handling of wastes containing these substances in excessive amounts, or any flammable wastes or harmful ingredients. All grease interceptors shall be of a type and capacity approved by the City Manager, and shall be located so they are readily and easily accessible for inspection and cleaning.

(b) FOG separators and grease interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction and equipped with removable covers.

(c) Exterior in-ground grease interceptors are required for any establishment with greater than nine drainage fixture units within areas where FOG is generated. The grease interceptor shall be a two-stage grease interceptor with a minimum capacity of one thousand gallons. Larger grease interceptor(s) may be required based on the total amount of drainage fixture units as per the most current State of California Plumbing Code.

(d) Prep sinks, mop sinks and floor drains may be required to be connected to a grease removal device at the discretion of the City Manager or his designees.

(e) For any indirect waste systems where hub drains and floor sinks are used as a receptor for dishwashers, two- and three- compartment sinks, or other similar fixtures, the drainage fixture unit count shall be twice the floor sink or hub drain fixture unit count and the drainage fixture count for the indirect waste source is not counted.

- (f) FOG separators shall be located upstream of any dishwashers or discharges exceeding one hundred ten degrees Fahrenheit.
- (g) Where installed, all FOG separators or grease interceptors shall be maintained and in continuous efficient operation at all times.

- (2) These facilities must have a FOG management program permit. An authorized inspector and/or the City Manager shall have right of entry as described in Section 12.18.070.1 of this chapter.
- (3) Fees, charges, and penalties are pursuant to Sections 12.18.100.5, 12.18.100.13, 12.18.110.2, and 12.18.140.1 of this chapter.
- (4) Dishwashers and food grinders are prohibited from discharging through the grease trap pursuant to the State of California Plumbing Code.
- (5) A grease collection service shall be required for all facilities that generate FOG.
- (6) If significant grease accumulation (e.g., a partial blockage) is found downstream or if significant grease wicking is found upstream of the process of concern, an authorized inspector and/or the City Manager may inspect the facility. The inspection will include a review of the grease management program, treatment system, waste storage area, and drains not flowing to the treatment system. BMPs not in place, hauler receipts for the prior three (3) years not available, and/or training documents not current may result in future inspections with an assessed fee as published in the City's Master Fee Schedule (see Section 12.18.140.1).
- (7) If a business is shown to be the cause of a grease-related sewer overflow, the user will be responsible for the cost of clean-up as set forth in Section 12.18.140.1.

B. Administration of the FOG Program. The City shall administer a FOG program, which is intended to prevent fats, oils, and grease, and other substances that are likely to block or create a hazard within the sewer system from entering the system through use of grease interceptors or grease traps. The City may require any non-domestic user to install a grease interceptor or grease trap according to the guidelines set forth in the City's standard specifications or other program prior to or at any time after connection to the POTW if the City discovers or determines subsequent to the connection of the facility, the user produces a waste with characteristics that would require installation of a grease interceptor or grease trap pursuant to this chapter.

The installation of a proper grease interceptor or grease trap device shall be the responsibility of the user that applies for the connection or wastewater discharge permit. The City shall determine whether a grease interceptor, grease trap, or other interceptor is required on a case-by-case basis based on an evaluation of the following criteria, including, but not limited to:

- (1) The type of user (restaurant, bakery, cheese factory, yogurt shop, gas station, lube facility, etc.);
- (2) The volume of the user's business or operation (number of meals served, number of seats, hours of operation, etc.);
- (3) Size and nature of facilities (including kitchen facilities) based on size, type, number of fixtures, and types of processing and/or cooking equipment used;
- (4) The type of service provided or operation undertaken (such as dine-in meal service versus carry-out meal service);
- (5) The type of foods and other materials used in the cooking, processing, or manufacturing operations carried on within the user's facility;
- (6) The overall potential for grease-laden, flammable, or sand-laden discharges; and
- (7) The existence of devices, procedures, or processes which are designed to minimize the amount of grease, sand, oil, or other flammable liquids from entering the sewer system.

The design, location, and procedures for operation of a required grease interceptor or grease trap shall be approved by the City. Such approval shall be obtained prior to the user's connection of the facility to the POTW, in the event of new construction or remodeling. In instances where a user has already connected and the City determines that a grease interceptor or grease trap must be installed, the user shall promptly provide for the installation of the device, including providing

such design and operational plans as may be required. The installation of a grease interceptor or grease trap as required by this chapter on an existing user facility shall occur within a reasonable time not to exceed sixty (60) days after the user has been provided notice that a grease interceptor or grease trap must be installed. This time limit may only be extended by the City in a written agreement.

C. Grease Interceptor Maintenance Procedures and Program. Any user, required by the City and/or this chapter to install and/or operate a grease interceptor or grease trap, shall adequately maintain the device so that the device is in proper working order at all times. Grease and oil interceptors shall be cleaned by a licensed and permitted waste hauler on a periodic basis to ensure that the grease interceptor will be operated as designed at all times. Any user, required to install or have in operation a grease interceptor or grease trap pursuant to this chapter, shall have a plan of operation or program for their facility that is intended to ensure that the grease interceptor or grease trap operates as designed to prevent grease, oil, sand, or other harmful constituents from entering the sewer system. These procedures may include adoption of kitchen practices to minimize grease-laden garbage, which may ultimately enter the facility's drains and floor traps and/or other such procedures as may be required for proper operation of the grease interceptors.

- (1) Grease interceptors shall be cleaned out completely by a FOG collection service as necessary to assure that the grease interceptor will operate as designed at all times or as otherwise specified by the City.
- (2) Decanting or discharging of removed waste back into the grease interceptor, for the purpose of reducing the volume to be hauled, is prohibited.
- (3) The use of additives, directly or indirectly to the plumbing or sewer system, to emulsify grease and/or oil, is specifically prohibited.
- (4) The use of biological additives as a supplement to grease interceptor maintenance, including the addition of microorganisms, may be authorized by the City Manager. Approval shall be obtained (in writing) prior to use of such additives.
- (5) Maintenance records indicating date of service, volume pumped, name of waste hauler, and waste disposal location for each pumping of the grease interceptor must be kept for a minimum of three (3) years. The records must be provided to the City Manager when requested during normal business hours.
- (6) All waste removed from a grease interceptor must be disposed of at a user permitted by Contra Costa County or other applicable regulatory agencies to receive such waste. Pumped out FOG shall not be returned to the sewer system, nor any private wastewater system, nor storm drains.
- (7) Any fixture connected to a grease interceptor shall have a non-removable, secured food strainer of such integrity so as to withstand daily operational usage.
- (8) Any and all authorized Inspectors shall request a facility representative to open a grease trap and/ or grease interceptor. If there is not a facility representative present that is able to open the grease trap or grease interceptor, the Inspector may elect to open the grease trap or grease interceptor with permission from the facility representative. The Inspector is not liable for any damage to the grease trap or grease interceptor during the inspection.

D. Best Management Practices.

- (1) Drain Screen. Drain screens shall be installed on all drainage pipes for all new food services establishments deemed by the City Manager to generate FOG.
- (2) Waste FOG.
 - (a) All waste FOG shall be collected and stored properly in recycling barrels, drums, or bins.
 - (b) Such recycling barrels, drums, or bins shall be maintained appropriately to ensure they do not leak or enter the City's stormwater collection system by direct discharge or by commingling with stormwater.
 - (c) A licensed collection service must be used to dispose of waste FOG.

- (3) Food Waste. All food waste shall be disposed of directly into the trash or garbage and not in sinks.
- (4) Employee Training.
 - (a) Employees of food service establishments shall be trained upon employment and then annually thereafter, on the following subjects:
 - (i) How to "dry wipe" pots, pans, dishware, and work areas before washing to remove FOG.
 - (ii) How to properly dispose of food waste and solids in enclosed plastic bags prior to disposal in trash bins or containers to prevent leaking and odors.
 - (iii) The location and use of absorption products to clean under fryers and other locations where grease may be spilled or dripped.
 - (b) Training shall be documented and employee signatures retained indicating each employee's attendance and understanding of the practices.
 - (c) Training records shall be available for review at any reasonable time by an authorized inspector and/or the City Manager.
- (5) Kitchen exhaust filters shall be cleaned as frequently as necessary in order to maintain good operating condition.
- (6) All BMPs shall be posted conspicuously in the food preparation and dishwashing areas and process areas at all times.

E. Grease Separators (Traps) for Treating FOG Wastes.

- (1) Facilities that have FOG, but are not required to have a grease interceptor, must have an adequate-sized grease trap as determined by the City Manager.
- (2) Required connections to grease traps: all three compartment sinks, scullery (preparation) sinks, and pre-wash sinks at dishwashing stations.
- (3) Prohibited connections or additives to grease traps:
 - (a) Final rinse discharge from automatic dishwashers/sanitizers shall not be connected to the grease trap.
 - (b) Chemical additives, such as chlorinated solvents, or any other additives that causes the emulsification of grease, are strictly prohibited from use in any grease trap.
- (4) Maintenance of the grease trap shall be as often as required to maintain it in an efficient operating condition.
- (5) For ease of inspection and maintenance, the area around the grease trap must be kept free of storage and the top of the grease trap must not be bolted down.
- (6) A maintenance log for the grease trap must be kept for a minimum of three (3) years and must be provided at the request of the City.

F. Grease Interceptors for Treating FOG Wastes.

- (1) Grease interceptors shall be required for new food handling facilities constructed after March 1, 2006.
- (2) Grease interceptors are required for food handling facilities that generate FOG when there is remodeling, additions, alterations, or repairs valued at or greater than what is specified in the City's fee schedule.
- (3) Effective March 1, 2006, those food handling facilities operating without a grease interceptor shall, within six (6) months of written notification by the City Manager, be required to install a grease interceptor if the City Manager determines that the food service establishment is not adhering to the BMP set forth in Section 12.18.030.2(D) of this chapter, or that the food service establishment has caused or contributed to a sewer system blockage resulting in maintenance requirements and/or sewage spills.
- (4) All new grease interceptors shall be designed, constructed, and installed in accordance with the current City of Richmond Building and Plumbing Codes, and shall be subject

to approval by the Building Regulations and the Water Resource Recovery Departments.

- (5) All submitted drawings shall be prepared by a licensed and registered professional engineer. Any false information or misleading calculations submitted shall be the responsibility of the user.
- (6) All grease interceptors shall be located such that they are readily and easily accessible for cleaning, inspection, and removal of intercepted waste.
- (7) A common grease interceptor shared by multiple businesses can be utilized if specifically authorized by the City Manager upon evidence of legal operating and maintenance agreements between the involved users.
- (8) All grease interceptors shall include an effluent sample box and a sanitary tee located on the discharge side of the sample box of a type and size approved by the City.
- (9) Inspection by the City of installed grease interceptors and piping prior to backfilling is required. Piping shall meet the requirements of the City of Richmond Building and Plumbing Code.
- (10) Grease interceptors shall have a clean-out installed after the sample box on the private lateral as required by the City of Richmond Building and Plumbing Code.
- (11) Required connections to grease interceptors: all two- and three- compartment sinks, scullery (preparation) sinks, floor drains and mop sinks along the cook line, pre-wash sinks at dishwashing stations, and all other fixtures that contribute grease into the sewer system.
- (12) No food service establishment or other identified user shall construct, remodel, or convert a grease interceptor without approval by the City.
- (13) Prohibited connections or additives to grease interceptors:
 - (a) Discharge from automatic dishwashers/sanitizers with temperature of over one hundred and ten (110) degrees Fahrenheit shall not be connected to a gravity or exterior grease interceptor of less than one-thousand-gallons in capacity.
 - (b) The use of any additive such as surfactants or chemicals shall not be connected to any type of grease interceptor. Chemical additives, such as chlorinated solvents, or another other additives that cause the emulsification of grease, are strictly prohibited from use in any type of grease interceptor.

G. Waivers for Treating FOG Wastes.

- (1) A food handling facility, or business with a process of concern determined to have no immediate adverse impact on the sewer system because of business type may be granted a waiver from grease trap or grease interceptors installation requirements.
- (2) The City Manager may, at any time, revoke a waiver and require the food handling facility to install a grease interceptor.
- (3) A grease interceptor or grease trap may not be required for business types listed below:
 - (a) Facilities only serving beverages;
 - (b) Facilities serving beverages and/or ready-to-eat, packaged, or unpackaged items;
 - (c) Ice cream parlors without any baking or other food preparation;
 - (d) Snack bars with no food preparation other than food warming;
 - (e) Bakeries with no food preparation other than food warming; or
 - (f) Other facilities serving only ready-to-eat foods with or without food warming.

H. Enforcement of the FOG Program. Pursuant to this chapter and/or lawful direction from the City, any non-domestic user who fails to maintain a grease interceptor or grease trap or implement BMPs shall be subject to enforcement procedures set forth in Section 12.18.100.13 of this chapter. For non-domestic users, enforcement actions may be initiated if the user fails to maintain, pump, and/or institute a proper grease or flammable substance reduction program and/or fails to provide appropriate employee training. For domestic users, enforcement actions

may be initiated if there is sufficient evidence that FOG is contributed to the City collection system from the users' private lateral connections.

12.18.030.3 - Additional pretreatment measures.

- A. Whenever deemed necessary, the City Manager may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and other such conditions may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.
- B. The City Manager may require any user discharging to the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- C. Water Softeners. This chapter does not prohibit the use of water softener units which:
 - (1) Were installed and in operation on or before January 31, 1966; and
 - (2) Are regenerated by the owner at the place of use of the unit.

This requirement shall not apply to water softener units that are commercially recharged and are not regenerated at the user's address. The discharge of salt waste from any unit allowed continuance by the provisions of this chapter shall be prohibited if the existing unit is replaced or repairs are made thereto in excess of fifty percent (50%) of the original cost of the unit.

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

12.18.030.4 - Accidental discharge/slug discharge control plan.

The City Manager shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The City Manager may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the City Manager may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- A. Description of the discharge practices, including non-routine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the City Manager of any accidental or slug discharge, as required by Section 12.18.060.6 of this chapter; and
- D. 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.

12.18.030.5 Hauled - wastewater.

- A. Septic tank waste may be introduced into the POTW only at locations designated by the City Manager, and at such times as are established by the City Manager. Such waste shall not violate Section 12.18.020 of this chapter or any other requirements established by the City. The City Manager may require septic tank waste haulers obtain coverage under an individual or general wastewater discharge permit.
- B. The City Manager may require haulers of industrial waste to obtain coverage under an individual or general wastewater discharge permit. The City Manager may require generators of hauled industrial waste to obtain coverage under an individual or general wastewater discharge permit. The City Manager may also prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.
- C. Industrial waste haulers may discharge loads only at locations designated by the City Manager. No load may be discharged without prior consent of the City Manager. The City Manager may collect samples of each hauled load to ensure compliance with applicable

standards. The City Manager may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

- D. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and address of sources of waste, and volume and characteristics of waste. The form shall identify the type of the industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

12.18.040 - Wastewater discharge permits.

12.18.040.1 - Wastewater analysis.

When requested by the City Manager, a user must submit information on the nature and characteristics of its wastewater within ten (10) days of the request. The City Manager is authorized to prepare a form for this purpose and may periodically require users to update this form.

12.18.040.2 - Wastewater discharge permit requirement.

- A. No SIU shall discharge wastewater into the POTW without first obtaining coverage under an individual or general wastewater discharge permit from the City Manager, except that an SIU that has filed a timely application pursuant to Section 12.18.040.3 of this chapter may continue to discharge for the time period specified therein.
- B. The City Manager may require other users to obtain coverage under an individual or general wastewater discharge permit as necessary to carry out the purposes of this chapter.
- C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter, and subjects the permittee to sanctions set out in Sections 12.18.100, 12.18.110, and 12.18.120 of this chapter. Obtaining coverage under an individual or general wastewater discharge permit does not relieve the permittee of its obligation to comply with all Federal and State national pretreatment standards or requirements or with any other requirements of Federal, State, or local law.

12.18.040.3 - Wastewater discharge permitting: Existing connections.

Any user required to obtain coverage under an individual or general wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this chapter and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the City Manager for a general wastewater discharge permit in accordance with Section 12.18.040.5 of this chapter, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this chapter except in accordance with a wastewater discharge permit issued by the City Manager.

12.18.040.4 - Wastewater discharge permitting: New connections.

Any user required to obtain coverage under an individual or general wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 12.18.040.5 of this chapter, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

12.18.040.5 - Wastewater discharge permit application contents.

- A. All users required to obtain coverage under an individual or general wastewater discharge permit must submit a permit application. The City Manager may require users to submit all or some of the following information as part of a permit application:
 - (1) Identifying Information.
 - (a) The name and address of the facility, including the name of the operator and owner.
 - (b) Contact information, description of activities, facilities, and plant production processes on the premises.
 - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (3) Description of Operations.

- (a) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and SIC codes of the operation(s) carried out by the user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
 - (b) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility that are, or could accidentally or intentionally be, discharged to the POTW.
 - (c) Number and type of employees, hours of operation, and proposed or actual hours of operation.
 - (d) Type and amount of raw materials processed (average and maximum per day).
 - (e) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
- (4) Time and duration of discharges.
 - (5) The location for monitoring all wastes covered by the permit.
 - (6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gpd, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula as set out in Section 12.18.020.2(C) (40 CFR Part 403.6(e)).
 - (7) Measurement of Pollutants.
 - (a) The categorical pretreatment standard applicable to each regulated process and any new categorical regulated processes for existing sources.
 - (b) The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the City Manager, of regulated pollutants in the discharge from each regulated process.
 - (c) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - (d) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 12.18.060.10 of this chapter. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the City Manager or the applicable standards to determine compliance with the standard.
 - (e) Sampling must be performed in accordance with procedures set out in Section 12.18.060.11 of this chapter.
 - (8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in a discharge based on Section 12.18.060.4(B) of this chapter (40 CFR Part 403.12(e)(2)).
 - (9) Any other information as may be deemed necessary by the City Manager to evaluate the permit application.
- B. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

12.18.040.6 - Wastewater discharge permitting: General permits.

- A. The City will classify all users in accordance with the principal activity conducted on the premises where the discharge occurs. The purpose of the classification is to facilitate regulation of discharges to City facilities on the basis of each user's waste quality, quantity, and flow. The classification shall further provide a means of imposing an appropriate level of oversight, control, and enforcement according to the source of the discharge. The classification system will also allow equitable recovery of City capital and operating costs for the environmental compliance program. As set forth in the definition section of this chapter, there are two (2) categories of users; to wit, domestic users and industrial users. Industrial users are categorized as:

(1)	Class IA	(Categorical >25,000 gals/day)
(2)	Class IB	(Categorical <25,000 gals/day)
(3)	Class IIA	(Significant user (non-categorical) >25,000 gals/day)
(4)	Class IIB	(Significant user (non-categorical) <25,000 gals/day)
(5)	Class III	(Industrial user)
(6)	Class IV	(Commercial user)
(7)	Class V	(FOG facility)
(8)	Class VI	(One-time discharger)

B. All users are subject to the prohibitions set forth in this chapter, with such Federal and State statutes and regulations as may apply, and the specific pollutant limitations as may be promulgated by the City Council either by ordinance or resolution.

C. Domestic users under normal circumstances will not be required to apply for or receive a wastewater discharge permit as defined in this chapter, providing that said domestic user discharges only that wastewater which is consistent with the definition of domestic wastewater set forth herein.

D. Industrial users may be subject to wastewater discharge permit requirements depending on the volume, characteristics, and origin of their wastewater discharge. Industrial users may be required to supply such information and data concerning their processes, including discharge samples and wastes generated, as may be necessary for the City to determine whether such user should be designated as Class IA, IB, IIA, IIB, III, IV, or V.

E. Industrial users must, if requested, provide such other information regarding the nature of the entity, its operations, storage and use of chemicals, and storage and use of hazardous substances, as may be reasonably necessary to make such determination as to the classification of said user and whether a wastewater discharge permit is needed. The City may also require information relating to potential for accidental discharges to a City facility of hazardous or prohibited substances. Such inquiries may include information regarding the current disposal procedures of the user with regard to chemicals and/or substances that are not in the ordinary course of the user's operations discharge to a City facility.

F. The City Manager, at his/her discretion, may use general wastewater discharge permits to control discharges to the POTW if all facilities to be covered by the general wastewater discharge permit meet all the following conditions:

- (1) Involve the same or substantially similar types of operations;
- (2) Discharge the same types of wastes;
- (3) Require the same effluent limitations;
- (4) Require the same or similar monitoring; and
- (5) In the opinion of the City Manager, are more appropriately controlled under a general wastewater discharge permit than under an individual wastewater discharge permit.

G. To be covered under a general wastewater discharge permit, the user must file a written request for coverage that identifies its contact information, production processes, types of wastes generated, location for monitoring all wastes covered by the general wastewater discharge permit, any requests in accordance with Section 12.18.060.4(B) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the City Manager deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general wastewater discharge permit until after the City Manager has provided written notice to the user that such a waiver request has been granted in accordance with Section 12.18.060.4(B).

H. The City Manager will retain a copy of the general wastewater discharge permit, documentation to support the City's determination that a specific user meets the criteria of section 12.18.040.6(A)(1) through (8) and applicable State regulations, and a copy of the user's written request for coverage for three (3) years after the expiration of the general wastewater discharge permit.

- I. The City Manager may not control a user through a general wastewater discharge permit where the user is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as a mass of pollutant discharged per day or for users whose limits are based on the combined wastestream formula (see Section 12.18.020.2 (C)) (40 CFR Part 403.6(e)) or net/gross calculations (see Section 12.18.020.2 (D)).

12.18.040.7 - Application signatories and certifications.

- A. All wastewater discharge permits applications, user reports, and certification statements must be signed by an authorized representative of the user (see Section 12.18.010.5(A)(5)) and contain the certification statement in Section 12.18.060.14(A).
- B. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the user, a new written authorization satisfying the requirements of this section must be submitted to the City Manager prior to or together with any reports to be signed by an authorized representative.
- C. A user determined to be a non-significant categorical industrial user by the City Manager pursuant to Section 12.18.010.5(A)(80)(c). must annually submit the signed certification statement in Section 12.18.060.14(B) (40 CFR Part 403.3(v)(2)).

12.18.040.8 - Wastewater discharge permit decisions.

The City Manager will evaluate the data furnished by the user and may require additional information. Within forty-five (45) days of the receipt of a completed permit application, the City Manager will determine whether to issue an individual a general wastewater discharge permit. The City Manager may deny any application for an individual or general wastewater discharge permit.

12.18.050 - Wastewater discharge permit issuance.

12.18.050.1 - Wastewater discharge permit duration.

A general wastewater discharge permit shall be issued for a specified period of time, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the City Manager. Each wastewater discharge permit will indicate a specific date upon which it will expire.

12.18.050.2 - Wastewater discharge permit contents.

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

A. Wastewater discharge permits must contain:

- (1) A statement that indicates the issuance date, expiration date, and effective date of the wastewater discharge permit;
- (2) A statement that the wastewater discharge permit is non-transferrable without prior notification to the City in accordance with Section 12.18.050.5 of this chapter, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Effluent limits, including BMPs, based on applicable pretreatment standards;
- (4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or BMPs) to be monitored sampling location, sampling frequency, and sample type based on Federal, State, and local law;
- (5) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with Section 12.18.060.4(B);
- (6) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law;

- (7) Requirements to control slug discharge, if determined by the City Manager to be necessary; and
 - (8) Any grant of the monitoring waiver by the City Manager (Section 12.18.060.4 (B)) must be included as a condition in the user's permit.
- 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 to the POTW;
 - (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-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 wastewater discharged to the POTW;
 - (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
 - (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 requirements, including those which become effective during the term of the wastewater discharge permit; and
 - (8) Other conditions deemed appropriate by the City Manager to ensure compliance with this chapter, and Federal and State laws, rules, and regulations.

12.18.050.3 - Permit appeals.

The City shall provide public notice of the issuance of all wastewater discharge permits. Any person, including the user, may petition the City Council to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of its issuance. The City Council shall give notice to the user of the time and place for a public hearing at least ten (10) days prior to the date of the public hearing. At the public hearing, the user may appear personally or through counsel, cross-examine witnesses, and present evidence on its behalf.

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

12.18.050.4 - Permit modification.

- A. The City Manager may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
 - (1) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

- (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the POTW, City personnel, or the receiving waters;
- (5) Violation of any terms or conditions of the wastewater discharge permit;
- (6) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revision of, or a grant of, variance from categorical pretreatment standards pursuant to 40 CFR Part 403.13;
- (8) To correct typographical or other errors in the wastewater discharge permit; or
- (9) To reflect a transfer of the user ownership or operation to a new owner or operator where requested in accordance with Section 12.18.050.5.

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

- (1) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- (2) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (3) To correct typographical or other errors in the wastewater discharge permit; or
- (4) To reflect a transfer of user ownership or operation to a new owner or operator where requested in accordance with Section 12.18.050.5.

12.18.050.5 - Wastewater discharge permit transfer.

An individual or general wastewater discharge permit may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days advanced notice to the City Manager, and the City Manager approves the permit transfer. The notice to the City Manager must include a written certification by the new owner or operator which:

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

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

12.18.050.6 - Wastewater discharge permit revocation.

The City Manager may revoke an individual or a general wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the City Manager of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the City Manager pursuant to Section 12.18.060.5 of this chapter;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports and certification statements;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the City Manager timely access to the facility premises and records;
- G. Failure to meet effluent 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 wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted user; or
- M. Violation of any pretreatment standard or requirement, or any terms of a wastewater discharge permit, or this chapter.

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

12.18.050.7 - Wastewater discharge permit reissuance.

A user with an expiring individual or coverage under a general wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 12.18.040.5 of this chapter, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.

12.18.050.8 - Regulation of waste received from other jurisdictions.

- A. If another jurisdiction, or user located within another jurisdiction, contributes wastewater to the POTW, the City Manager shall enter into an agreement with the contributing jurisdiction.
- B. Prior to entering into an agreement as required by Section 12.18.050.8(A), the City Manager shall request the following information from the contributing jurisdiction:
 - (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing jurisdiction;
 - (2) An inventory of all users located within the contributing jurisdiction that are discharging to the POTW; and
 - (3) Other such information that the City Manager deems necessary.
- C. An intermunicipal agreement, as required by Section 12.18.050.8(A), shall contain the following conditions:
 - (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this chapter and local limits, including baseline monitoring reports (BMRs) which are at least as stringent as those set out in Section 12.18.020.4 of this chapter. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or local limits;
 - (2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
 - (3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing jurisdiction; which of these activities will be conducted by the City Manager; and which of these activities will be conducted jointly by the contributing jurisdiction and City Manager;
 - (4) A requirement for the contributing jurisdiction to provide the City Manager with access to all information that the contributing jurisdiction obtains as part of its pretreatment activities;
 - (5) Limits on the nature, quality, and volume of the contributing jurisdiction's wastewater at the point where it discharges to the POTW;
 - (6) Requirements for monitoring the contributing jurisdiction's discharge;
 - (7) A provision ensuring the City Manager access to facilities of users located within the contributing jurisdiction's boundaries for the purpose of inspection, sampling, and other duties deemed necessary by the City Manager; and

A provision specifying remedies available for breach of the terms of the agreement.

12.18.060 - Reporting requirements.

12.18.060.1 - Baseline monitoring reports.

Users that become subject to new or revised categorical pretreatment standards are required to comply with the following reporting requirements even if they have been designated as non-significant categorical industrial users.

- A. Within either one hundred eighty (180) days after the effect of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR Part 403.6(a)(4), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the City Manager a report which contains information listed in Section 12.18.060.1(B). At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the City Manager a report which contains the information listed in Section 12.18.060.1(B). A new source shall 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 to be discharged.
- B. Users described above shall submit the information set forth below.
 - (1) All information required in Sections 12.18.040.5(A)(1)(a), 12.18.040.5(A)(2), 12.18.040.5(A)(3)(a), and 12.18.040.5(A)(6).
 - (2) Measurement of Pollutants.
 - (a) The user shall provide the information required in Section 12.18.040.5(A)(7)(a) through (d).
 - (b) The user shall take a minimum of one (1) representative sample to compile data necessary to comply with the requirements of this paragraph.
 - (c) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewater are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR Part 403.6(e) to evaluate compliance with pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR Part 403.6(e), this adjusted limit along with supporting data shall be submitted to the City.
 - (d) Sampling and analysis shall be performed in accordance with Section 12.18.060.10.
 - (e) The City Manager may allow the submission of a baseline report which utilizes only historical data as long as the data provide information sufficient to determine the need for industrial pretreatment measures.
 - (f) The baseline report shall indicate the time, date, and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
 - (3) Compliance Certification. A statement, reviewed by the user's authorized representative (as defined in Section 12.18.010.5(A)(5) 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 and/or additional pretreatment is required to meet pretreatment standards and requirements.
 - (4) Compliance Schedule. If additional pretreatment and/or operation and maintenance will be required to meet pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or operation and maintenance must be provided. 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 12.18.060.2 of this chapter.
 - (5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 12.18.060.14(A) of this chapter and signed by an authorized representative (as defined in Section 12.18.010.5(A)(5)).

12.18.060.2 - Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by Section 12.18.060.1(B)(4) of this chapter.

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred to above shall exceed nine (9) months;
- C. The user shall submit a progress report to the City Manager no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- D. In no event shall more than nine (9) months elapse between such progress reports to the City Manager.

12.18.060.3 - Reports on compliance with categorical pretreatment standard deadline.

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater to the POTW, any user subject to such pretreatment standards and requirements shall submit to the City Manager a report containing the information described in Section 12.18.040.5(A)(1) through (7) and Section 12.18.060.1(B)(2) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 12.18.020.2 (see 40 CFR 403.6(c)), this report shall contain a reasonable measure of the user's long-term production rate. For all other user subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 12.18.060.14(A) of this chapter. All sampling will be done in conformance with Section 12.18.060.11.

12.18.060.4 - Periodic compliance reports.

All SIUs are required to submit periodic compliance reports even if they have been designated a non-significant categorical industrial user under the provisions of Section 12.18.060.4(C).

- A. Except as specified in Section 12.18.060.4(C), all users must, at a frequency determined by the City Manager, submit no less than twice per year (July 31st and January 31st) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the user must submit documentation required by the City Manager or the pretreatment standard necessary to determine the compliance status of the user.
- B. The City may authorize a user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the 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 only present at background levels from intake water and without any increase in the pollutant due to activities of the user [see 40 CFR 403.12(e)(2)]. This authorization is subject to the following conditions:
 - (1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater being discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical pretreatment standard and otherwise includes no process wastewater.
 - (2) The monitoring waiver is valid only for the duration for the effective period of the wastewater discharge permit, but in no case longer than five (5) years. The user

must submit a new request for the waiver before the waiver can be granted for each subsequent wastewater discharge permit. (See Section 12.18.040.5(A)(8).)

- (3) In making a demonstration that a pollutant is not present, the user must provide data from at least one (1) sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
 - (4) The request for a monitoring waiver must be signed in accordance with Section 12.18.010.5(A)(5), and include the certification statement in Section 12.18.060.14(A) [40 CFR 403.6(a)(2)(ii)].
 - (5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA-approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
 - (6) Any grant of a monitoring waiver by the City Manager must be included as a condition in the user's wastewater discharge permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the City Manager for three (3) years after the expiration of the waiver.
 - (7) Upon approval of the monitoring waiver and revision to the user's wastewater discharge permit by the City Manager, the user must certify on each report with the certification statement in Section 12.18.060.14(C), that there has been no increase in the pollutant in its wastestream due to activities of the user.
 - (8) In the event that a waived pollutant is found to be present or expected to be present because of changes that occur in the user's operations, the user must immediately comply with the monitoring requirements of Section 12.18.060.4(A), or other more frequent monitoring requirements imposed by the City Manager, and notify the City Manager.
 - (9) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.
- C. The City may reduce the requirement for periodic compliance reports (see Section 12.18.060.4(A)) [40 CFR Part 403.12(e)(1)] to a requirement to report no less frequently than once per year, unless required more frequently in the pretreatment standard or by EPA or the State, where the user's total categorical wastewater flow does not exceed any of the following:
- (1) 0.01 percent (0.01%) of the design dry weather hydraulic capacity of the POTW, or five thousand (5,000) gpd, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the user discharges in batches;
 - (2) 0.01 percent (0.01%) of the design dry weather organic treatment capacity of the POTW; and
 - (3) 0.01 percent (0.01%) of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical pretreatment standard for which approved local limits were developed in accordance with Section 12.18.020.4 of this chapter.
- Reduced reporting is not available to users that have in the last two (2) years been in significant noncompliance, as defined in Section 12.18.010.5(A)(81) of this chapter. In addition, reduced reporting is not available to a user with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the City Manager, decreasing the reporting requirement for this user would result in data that are not representative of conditions occurring during the reporting period.
- D. All periodic compliance reports must be signed and certified in accordance with Section 12.18.060.14(A) of this chapter.
- E. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of the user to keep its

monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

- F. If a user subject to the reporting requirement of this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the City Manager, using the procedures prescribed in Section 12.18.060.11 of this chapter, the results of this monitoring shall be included in the report.
- G. Users that send electronic (digital) documents to the City to satisfy the requirements of this section must comply with the City's reporting requirements as specified per 40 CFR Part 3.

12.18.060.5 - Reports of changed conditions.

Each user must notify the City Manager of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

- A. The City Manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 12.18.040.5 of this chapter.
- B. The City Manager may issue an individual or a general wastewater discharge permit under Section 12.18.050.7 of this chapter or modify the existing wastewater discharge permit under Section 12.18.050.4 of this chapter in response to changed conditions or anticipated changed conditions.

12.18.060.6 - Reports of potential problems.

- A. In cases of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the City Manager of the incident. This notification shall include the location of the discharge, type of waste, concentration, and volume, if known, and corrective actions taken by the user.
- B. Within five (5) days following such discharge, the user shall, unless waived by the City Manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.
- C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in Section 12.18.060.6(A). Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.
- D. SIUs are required to notify the City Manager immediately of any changes at its facility affecting the potential for a slug discharge.

12.18.060.7 - Reports from unpermitted users.

Users not required to obtain a wastewater discharge permit shall provide appropriate reports to the City Manager as he/she may require.

12.18.060.8 - Notice of violation/repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the City Manager within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City Manager within thirty (30) days after becoming aware of the violation. Resampling by the user is not required if the City performs sampling at the user's facility at least once per month, or if the City performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the user.

As a result of any discharge violation, increased sampling and inspections may be required to verify that the violation has been corrected. The magnitude of the violation will dictate how many follow-up samples and inspections will be conducted to verify that the violation has been corrected. For violations in the NOV range, the following minimum sampling schedule will be

established: one follow-up sample will be taken within thirty (30) days by the user and/or the City. Monthly monitoring will continue at the facility until at least three (3) consecutive sample results, over a three-month period (minimum), indicate the discharge is no longer in violation.

12.18.060.9 - Notification of the discharge of hazardous waste.

A. Any user who commences discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and Department of Toxic Substances Control, in writing, of any discharge to the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent that such information is known and readily available to the 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 wastestream discharged during that calendar month; and
- (3) An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months.

All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph needs to be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 12.18.060.5 of this chapter. The notification requirement of this section does not apply to pollutants already reported by the users subject to categorical pretreatment standards under the self-monitoring requirements of Sections 12.18.060.1, 12.18.060.3, and 12.18.060.4 of this chapter.

B. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substances as a hazardous waste, the user must notify the City Manager, the EPA Regional Waste Management Division Director, and Department of Toxic Substances Control of the discharge of such substance within ninety (90) days of the effective date of such regulations.

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

D. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a wastewater discharge permit issued thereunder, or any applicable Federal or State law.

12.18.060.10 - Analytical requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of the wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where EPA determines that the Part 136 sampling and analysis are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods for any other applicable sampling and analytical procedures, including procedures suggested by the City Manager or other parties approved by EPA.

12.18.060.11 - Sample collection.

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

A. Except as indicated in Section 12.18.060.11(B) through (C), the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the City Manager. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA

guidance, multiple grab samples collected during a 24-hour period may be composited prior to analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

- B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Sections 12.18.060.1 and 12.18.060.3, 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 Manager may authorize a lower minimum. For the reports required in Section 12.18.060.4, the user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

12.18.060.12 - Date of receipt of reports.

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

12.18.060.13 - Recordkeeping.

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with BMPs established under Section 12.18.020.4(D). Records shall include the date, exact place, method and time of sampling, and the name of the person(s) taking the samples; the date(s) analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the City Manager.

12.18.060.14 - Certification statements.

- A. Certification of Wastewater Discharge Permit Applications, User Reports, and Initial Monitoring Waiver. The following certification statement is required to be signed and submitted by users submitting wastewater discharge permit applications in accordance with Section 12.18.040.7; users submitting baseline monitoring reports under Section 12.18.060.1(B)(5); user submitting compliance reports on categorical pretreatment standard deadlines under Section 12.18.060.3; users submitting periodic compliance reports required by Section 12.18.060.4(A) through (D); and user submitting an initial request to forego sampling of a pollutant on the basis of Section 12.18.060.4(B)(4). The following certification statement must be signed by an authorized representative as defined in Section 12.18.010.5(A)(5):

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

- B. Annual Certification for Non-Significant Categorical Industrial Users. A facility determined to be a non-significant categorical industrial user by the City Manager pursuant to Sections 12.18.010.5(A)(80)(c) and 12.18.040.7(C) must annually submit the following certification statement signed in accordance with the signatory requirements in Section 12.18.010.5(A)(5). This certification must accompany an alternative report required by the City Manager.

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

- (1) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Section 12.18.010.5(A)(80)(c);
- (2) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and
- (3) The facility never discharged more than one hundred (100) gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information:

- C. Certification of Pollutants Not Present. Users that have an approved a monitoring waiver based on Section 12.18.060.4(B) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR Part(s) _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing the last periodic report under Section 12.18.060.4(A).

12.18.070 - Compliance monitoring.

12.18.070.1 - Right of entry: Inspection and sampling.

An authorized inspector or the City Manager shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any wastewater discharge permit or order issued hereunder. Users shall allow the authorized inspector or City Manager 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 authorized inspector or City Manager shall be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The authorized inspector or City Manager shall have the right to set up on the user's premises, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. The City Manager may require the user to install monitoring equipment as necessary. The user's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated according to manufacturer's specifications to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written notice or verbal request of the City Manager and shall not be replaced. The costs of clearing such access shall be borne by the user.
- E. Unreasonable delays in allowing the authorized inspector or City Manager access to the user's premises shall be a violation of this chapter.

12.18.070.2 - Search warrants.

If an authorized inspector or City Manager has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect overall public health, safety, and welfare of the community, the City may seek issuance of a search warrant from the Contra Costa County Superior Court.

12.18.080 - Confidential information.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from 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 Manager, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. 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, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data as defined in 40 CFR Part 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

12.18.090 - Publication of users in significant noncompliance.

The City shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all SIUs (or any other user that violates subsection (C), (D), or (H) of this section) and shall mean the following:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all measurements taken for the same pollutant parameter during a six- (6-) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in Section 12.18.020;
- B. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined in Section 12.18.020 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 Section 12.18.020 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the City Manager determines has caused, alone or in combination with other discharges, interference, or pass through, including endangering the health of the POTW personnel or the general public;
- D. Any discharge of a pollutant that has caused imminent endangerment to the public or the environment, or has resulted in the City Manager's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, period self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or

- H. Any other violation(s), which may include a violation of best management practices, which the City Manager determines will adversely affect the operation or implementation of the pretreatment program.

12.18.100 - Administrative enforcement remedies.

It is the intent of this enforcement section to provide adequate mechanisms to achieve a maximum degree of compliance with this chapter by all users. These enforcement provisions apply to all classes of users to the extent such user violates any provision of this chapter or administrative order of the City pursuant to this chapter. In order to achieve the maximum degree of compliance desired, the City will use a variety of enforcement mechanisms. The enforcement mechanisms set forth range from informal administrative action to formal criminal prosecution. The City may, in its discretion, implement the use of any mechanism or the concurrent use of several mechanisms in order to enforce the provisions of this chapter. The enforcement mechanisms provided herein may be cumulative in respect to such other enforcement mechanisms or civil and criminal penalties as may be otherwise available under the laws of the State of California and the United States of America. Nothing in this chapter is intended to prevent State and/or Federal regulatory agencies from undertaking enforcement actions as may otherwise be available due to a violation of this chapter which also constitutes a violation of Federal or State statutes and regulations, such as: (1) the Clean Water Act (33 USCA § 1251 et seq.); (2) the California Porter-Cologne Water Quality Act (California Water Code § 13000 et seq.); (3) the California Hazardous Waste Control Law (California Health and Safety Code §§ 25100-25250); (4) the Resource Conservation and Recovery Act (42 USCA §6901 et seq.); and (5) California Government Code §§ 54739—54740.6. The referenced State and Federal laws, along with other pertinent laws, provide authority for the City's enforcement mechanisms.

The enforcement mechanisms available to the City for violations of the provisions of this chapter, applicable City resolutions, and permit or permit contract provisions include the following:

- A. Informal administrative actions.
 - (1) Letter of warning.
 - (2) Notice of violation.
- B. Compliance meeting.
- C. Consent orders.
- D. Assessment of charges for obstruction or damage to POTW or operations.
- E. Show cause hearings.
- F. Compliance order.
- G. Cease and desist order.
- H. Emergency suspension.
- I. Termination of service or revocation of wastewater discharge permit.
- J. Administrative fines.
- K. Enforcement of the FOG Program.

12.18.100.1 - Informal administrative actions.

City staff may, on an informal basis, take action against a discharger for minor violations or technical or clerical shortcomings of a user or a user's compliance submittals. These informal administrative actions may include informal notices (i.e., telephone calls to the user's representative), a notice of violation (NOV), and informal meetings or informal warning letters. These informal administrative actions may establish a compliance schedule for the discharger to follow in order to document compliance. Such action will not prevent a subsequent or concurrent imposition of other enforcement mechanisms.

12.18.100.2 - Letter of warning.

A letter of warning is generally issued for an isolated non-significant violation. In this case, the inspector notifies the user (in writing) that a violation occurred and directs the user to take corrective actions. This notification serves as the enforcement action. The letter of warning will be placed in the City's file. The inspector may schedule additional inspections and/or sampling, or may elect to implement more stringent enforcement action.

12.18.100.3 - Notice of violation.

When the City Manager finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the City Manager may serve upon that user a written notice of violation. Within fourteen (14) days of the receipt of such 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 City Manager. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the City Manager to take any action, including emergency actions or any other enforcement actions, without first issuing a notice of violation.

12.18.100.4 - Compliance meeting.

Compliance meetings are held when severe violations occur or when previous violations appear to remain uncorrected as evidenced by repeated violations. Many NOVs do not require a compliance meeting. The enforcement response guide details when compliance meetings are required. During a compliance meeting, a compliance schedule and timeline are established for the user to correct the violation. Progress on the compliance schedule is tracked by the inspector and reported to the Environmental Services Manager. Compliance schedules are fulfilled when all tasks are completed and consistent compliance is achieved. The wastewater discharge permit may be modified to include the provisions of a compliance schedule.

A. A compliance meeting is generally scheduled when:

- (1) The user exceeds five (5) times the applicable discharge limit for any toxic pollutant or violates any California State Hazardous Waste Limit.
- (2) The user has a pH violation of less than two (2) or greater than twelve (12) or has two NOVs in a two-month period.
- (3) The user has demonstrated a pattern of noncompliance. A pattern of noncompliance would include:
 - (a) The user has been listed in accordance with the Regional Water Quality Control Board (Regional Water Board) Standard Provisions (1991) as inconsistently achieving compliance or as having significantly violated applicable pretreatment requirements for two consecutive quarters for the same pollutant;
 - (b) A user has four (4) or more NOVs in a five- (5-) month period for any sewer use ordinance violation; or
 - (c) Failure to respond to an NOV within forty-five (45) days of the due date.

B. A maximum of two (2) compliance meetings per pollutant, within a two- (2) year period, may be held to address noncompliance before more stringent enforcement actions are considered. In cases of severe noncompliance, or when the user has already had two (2) previous compliance meetings, the wastewater discharge permit may be modified to include the provisions of a compliance schedule.

C. Violations which occur during the implementation of a compliance schedule, and which involve the pollutant(s) addressed by the compliance schedule, may be documented through enforcement actions of a lesser degree than indicated in the enforcement response guide, if short-term measures have been implemented to prevent violations. If a user is under a compliance schedule and receives an enforcement action less than what is called for in the procedures, the inspector must write the following on the enforcement action approval form:

- (1) That the enforcement action is less severe than the procedural requirement because the user is under a compliance schedule; and
- (2) Reference the specific compliance meeting.

This process allows for the documentation of all violations without excessively penalizing a user who is actively working to correct the violation.

12.18.100.5 - Assessment of charges for obstruction or damage to POTW or operations.

When a user's discharge, whether due to negligence, accident, spill, or otherwise, causes an obstruction, damage, or any other impairment to the City's operation or facilities, the City may

impose a charge on the user for the cost to clean or repair the facility, or costs incurred to resume normal operations. An administrative service fee of twenty-five percent (25%) of the City's costs may be added to these charges. The total amount shall be paid within forty-five (45) days of invoicing by the City. If it can be shown that the user's discharge caused or significantly contributed to the City violating its discharge requirements or incurring additional expenses or suffering loss or damage to the operation or facilities, then the user shall be responsible for any costs or expenses, or a prorated portion of such expenses, including assessments or penalties imposed by other agencies or the court on the City.

12.18.100.6 - Consent orders.

The City Manager may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance 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 12.18.100.8 and 12.18.100.9 of this chapter and shall be judicially enforceable.

12.18.100.7 - Show cause hearing.

The City Manager may order the user which has violated, or continues to violate, any provision of this chapter, wastewater discharge permit, or order issued hereunder, or any other pretreatment standards or requirement, to appear before the City Manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place of 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. This notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fourteen (14) days prior to the hearing. Such notice may be served on any Authorized Representative of the user (as defined in Section 12.18.010.5(A)(5) and required by Section 12.18.040.7(A)). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

12.18.100.8 - Compliance orders.

When the City Manager finds that a user has violated, or continues to violate, any provision of this chapter, wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the City Manager may issue an order to the user responsible for the discharge directing that the user comes into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and BMPs designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

12.18.100.9 - Cease and desist orders.

When the City Manager finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the City Manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventative 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.

12.18.100.10 - Emergency Suspension.

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

notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the City Manager may 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 City Manager may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City Manager that the period of endangerment has passed, unless the termination proceedings in Section 12.18.100.11 of this chapter are initiated against the user.
- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the City Manager prior to the date of any show cause or termination hearing under Section 12.18.100.7 or 12.18.100.11 of this chapter.

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

12.18.100.11 - Termination of service or revocation of wastewater discharge permit.

In addition to provisions in Section 12.18.050.6 of this chapter, any user who violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report 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 pretreatment standards in Section 12.18.020 of this chapter.

Such user will be notified of the proposed termination of its discharge and offered an opportunity to show cause under Section 12.18.100.7 of this chapter why the proposed action should not be taken. Exercise of this option by the City Manager shall not be a bar to, or a prerequisite for, taking any other action against the user.

12.18.100.12 - Administrative fines.

- A. Pursuant to the authority of California Government Code Sections 54739 to 54740.6, the City or City staff may issue administrative complaints, conduct administrative hearings, and/or impose civil penalties in accordance with the procedures set forth in these sections for violation of the City's requirements relating to pretreatment of industrial waste or the prevention of the entry of industrial waste into the City's collection system or treatment works. These penalties shall be as follows:
 - (1) In an amount which shall not exceed two thousand dollars (\$2,000) for each day for failing or refusing to furnish technical or monitoring reports.
 - (2) In an amount which shall not exceed three thousand dollars (\$3,000) for each day for failing or refusing to timely comply with any compliance schedule established by the City.
 - (3) In an amount which shall not exceed five thousand dollars (\$5,000) per violation for each day for discharges in violation of any waste discharge limitation, permit condition, or requirement issued, reissued, or adopted by the City.
 - (4) In an amount which does not exceed ten dollars (\$10) per gallon for discharges in violation of any suspension, cease and desist order, or other orders, or prohibition issued, reissued, or adopted by the City.
- B. Unless appealed, orders setting administrative civil penalties shall become effective and final upon issuance thereof, and payment shall be made within thirty (30) days.

- C. As to court actions authorized by the above-referenced sections, the City Attorney, or other special counsel designated by the City Attorney, shall institute appropriate actions to effect statutorily authorized remedies, upon order of the City Council.
- D. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance. A lien against the user's property shall be sought for unpaid charges, fines, and penalties.
- E. Users desiring to dispute such fines must file a written request for the City Manager to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. The City Manager shall convene a hearing on the matter within ten (10) days. In the event the user's appeal is successful, the payment, together with any additional penalty assessed thereto, shall be returned to the user. The City Manager may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- F. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

12.18.100.13 – Enforcement of the FOG Program

In the event that a user fails to comply with the City requirements pursuant to section 12.18.030.2, the City may take the following enforcement actions until the user complies with such requirements to prevent FOG from entering the City collection system:

- A. Issuance of a Notice of Violation when a user fails to comply with Section 12.18.030.2 (A)(B)(C)(D) and/or (F) during an initial inspection.
- B. Issuance of an administrative fine when a user fails to comply with Section 12.18.030.2(A)(B)(C)(D) and/or (F) during two consecutive inspections.
 - a. Administrative citation fines are as follows: \$250 for the first citation, \$500 for the second citation; and \$1,000 for the third citation.
 - b. Administrative citation fines shall escalate if the same violation occurs within 365 days.
 - c. The City may apply such administrative citation fines to domestic users if there is sufficient evidence to show FOG is contributed to the City collection system from the users' private lateral connection repeatedly, and the user fails to implement best management practices as set forth by the City Manager or his designees.
 - d. Appeal of Administrative citation fines shall follow procedures as described in Section 12.18.100.12 (B)(C)(D)(E).

12.18.110 - Judicial enforcement remedies.

In the event that a user fails to comply with City-initiated enforcement actions, the City may seek judicial remedies, including, but not limited to, injunctive relief, civil penalties, and criminal prosecution, through the City Attorney. For case referrals, the City Attorney is consulted and is the lead agent in developing the referral document.

12.18.110.1 - Injunctive relief.

When the City Manager finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the City Manager may petition the Contra Costa County Superior Court through the City Attorney for 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 chapter on activities of the user. The City Manager may also seek other action as 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.

12.18.110.2 - Civil actions.

The City Council may direct the City Attorney or other special counsel to bring such civil actions as may be available at law or in equity in any court of competent jurisdiction to enforce the provisions of this chapter and to recover such charges, fees, penalties, and/or damages as may be assessed or may be incurred under the provisions of this chapter.

- A. Whenever a discharge of wastewater is in violation of the provisions of this chapter, the City may petition the Superior Court for issuance of preliminary or permanent injunction, or both, as may be appropriate in restraining the continuance of such discharge.

- B. Civic Actions for Penalties. Any user who violates any provision of this chapter, permit condition or permit contract condition, or who violates any cease and desist order prohibition, or effluent limitation, shall be liable civilly for a penalty not to exceed twenty-five thousand dollars (\$25,000) for each day in which such violation occurs pursuant to California Government Code Section 54740. Pursuant to the authority of the Clean Water Act, 33 USCA, Section 1251 et seq. Any user committing a violation of any provision of this chapter, which is also a violation of pretreatment standard, effluent standard, or limitation or other applicable provision of the Clean Water Act shall be liable civilly for a sum not to exceed twenty-five thousand (\$25,000) per violation for each day in which such violation occurs. The City Attorney, or other special counsel designated by the City Council, upon order of the City Council, shall institute such actions as may appropriate in the appropriate court to impose, assess and recover such sums.
- C. Other Civil Actions. The City may require compliance with permit conditions or limitations by issuing administrative orders, including cease and desist orders and compliance schedules. Said orders are enforceable in a California court of general jurisdiction. The City, however, may directly undertake any court action for penalties without first seeking an administrative order or making use of a compliance schedule, and it may concurrently undertake such administrative and court actions as deemed appropriate.
- D. 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 of the violation, 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.
- E. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

12.18.110.3 - Criminal prosecution.

- A. A user who willfully or negligently violates any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by fines and/or imprisonment in accordance with Section 1.04.100 of the City of Richmond Municipal Code.
- B. A user who willfully or negligently introduces any substance to the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor, punishable by fines and/or imprisonment in accordance with Section 1.04.100 of the City of Richmond Municipal Code. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- C. A user who knowingly makes false statements, representations, or certifications in any application, record, report, plan, or documentation filed, or required to be maintained, pursuant to this chapter, a wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method under this chapter shall, upon conviction, be punished by a fine and/or imprisonment in accordance with Section 1.04.100 of the City of Richmond Municipal Code.
- D. In the event of a second conviction, a user shall be punished by a fine and/or imprisonment in accordance with Section 1.04.100 of the City of Richmond Municipal Code.

Nothing in this section is intended to exclude the potential for prosecution under the applicable perjury statutes of the State of California to the extent such falsification was incorporated in a document signed under the penalty of perjury.

12.18.110.4 - Remedies nonexclusive.

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

12.18.120 - Supplemental enforcement action.

12.18.120.1 - Penalties for late reports.

A penalty may be assessed to any user for each day that a report required by this chapter, a permit or order issued hereunder is late, beginning five (5) days after the date the report is due. Higher penalties may also be assessed where reports are more than thirty (30) to forty-five (45) days late. Actions taken by the City Manager to collect late reporting penalties shall not limit his/her authority to initiate other enforcement actions that may include penalties for late reporting violations.

12.18.120.2 - Performance bonds.

The City Manager may decline to issue or reissue an individual or a general wastewater discharge permit to any user who has failed to comply with any provision of this chapter, 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 Richmond, in a sum not to exceed a value determined by the City Manager to be necessary to achieve compliance.

12.18.120.3 - Liability Insurance.

The City Manager may decline to issue or reissue an individual or a general wastewater discharge permit to any user who has failed to comply with any provision of this chapter, 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.

12.18.120.4 - Payment of outstanding fees and penalties.

The City Manager may decline to issue or reissue an individual or a general wastewater discharge permit to any user who has failed to pay any outstanding fees, fines, or penalties incurred as a result of any provision of this chapter, a previous wastewater discharge permit or order issued hereunder.

12.18.120.5 - Water supply severance.

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

12.18.120.6 - Public nuisances.

A violation of any provision of this chapter, a waste 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 City Manager. Any person(s) creating a public nuisance shall be subject to the provisions of Chapter 9.22 of the City of Richmond Municipal Code governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

12.18.120.7 - Contractor listing.

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

12.18.130 - Affirmative defenses to discharge violations.

12.18.130.1 - Upset.

- A. For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of Section 12.18.130.1C. are met.

- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the City Manager 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 noncompliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time of noncompliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of noncompliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Users shall have the opportunity for judicial determination of any claim of upset only in an enforcement action is brought for noncompliance with categorical pretreatment standards.
- F. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

12.18.130.2 - Prohibited discharge standards.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 12.18.020.1(A) of this chapter or the specific prohibitions in Sections 12.18.020.1 (B)(3) through (7) and 12.18.020.1(B)(9) through (18) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- A. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- B. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

12.18.130.3 - Bypass.

- A. For the purposes of this section:
 - (1) "Bypass" means the intentional diversion of wastestream 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 pretreatment standards or requirements to be violated, but only if it is also for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Section 12.18.130.3(C) through (D).
- C. Bypass Notifications.
 - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the City Manager, at least ten (10) days before the date of the bypass, if possible.
 - (2) A user shall submit oral notice to the City Manager 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 the following information:

- (a) A description of the bypass and its cause;
- (b) The duration of the bypass, including exact dates and times;
- (c) If the bypass has not been corrected, the anticipated time it is expected to continue; and
- (d) The steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

The City Manager 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.

- (1) Bypass is prohibited, and the City Manager may take 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 preventative maintenance; and
 - (c) The user submitted notices as required in Section 12.18.130.3(C).
- (2) The City Manager may approve an anticipated bypass, after considering its adverse effects, if he/she determines that it will meet the three conditions listed in Section 12.18.130.3(D)(1)(a) through (c).

12.18.140 - Wastewater treatment rates.

12.18.140.1 - Fees and charges.

In order to recover from users the cost of implementing the pretreatment program established in this chapter, the City Council shall adopt, by resolution, fees and charges, which may include:

- A. Fees for reimbursement of costs of setting up and operating the City's pretreatment program;
- B. Fees for monitoring, inspections, and surveillance procedures;
- C. Fees for reviewing accidental discharge procedures and construction;
- D. Fees for wastewater discharge permit applications;
- E. Fees for filing appeals;
- F. Fees for consistent removal by the City of pollutants otherwise subject to pretreatment standards or requirements;
- G. Fees for discharge of stormwater, surface water, groundwater, roof runoff containing pollutants or industrial waste, or pretreated hazardous wastewater;
- H. Cost of inspecting and issuing NOVs;
- I. Cost of re-inspection for violations;
- J. Fees associated with grinders:
 - (1) Food handling facilities with grinders and no treatment system will incur a ten percent (10%) surcharge to the sewer service fee.
 - (2) Food handling facilities with grinders connected to the grease trap is a violation.
 - (a) Five (5) working days shall be granted to correct violation;
 - (b) If not corrected, then administrative orders will be issued;

- (c) The penalties to be imposed shall be \$250 for the first violation, \$500 for the second violation, and \$1,000 for the third violation and each violation thereafter;
- L. Blockages determined to be caused by FOG and associated with a responsible party with evidence (i.e., televised recording of the source lateral), shall pay the City for the costs incurred pursuant to Section 12.18.100.5;
- M. All fees, charges, and penalties, are due by the property owner;
- N. Other fees as the City may deem necessary to carry out the requirements contained in this chapter.

Section II. **Severability.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

Section III. **Effective Date.**

This ordinance becomes effective thirty days after its final passage and adoption.

First read at a regular meeting of the Council of the City of Richmond held April 17, 2018, and finally passed and adopted at a regular meeting thereof held May 1, 2018, by the following vote:

AYES:	Councilmembers Beckles, Choi, Martinez, Myrick, Recinos, Vice Mayor Willis, and Mayor Butt.
NOES:	None.
ABSTENTIONS:	None.
ABSENT:	None.


PAMELA CHRISTIAN
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:
TOM BUTT
Mayor

Approved as to form:
BRUCE GOODMILLER
City Attorney

State of California }
County of Contra Costa : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Ordinance No. 09-18 N.S.**, passed and adopted by the City Council of the City of Richmond at a regular meeting held on May 1, 2018.



Pamela Christian, City Clerk of the City of Richmond