

**ATTACHMENT A**

**Proposed Clarifications / Corrections**

**Revised Code of Ordinances, Chapter 70 - Utilities  
Article II – Wastewater System**

**Sec. 70-26. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Applicant* means any person requesting approval to discharge wastewaters into municipal facilities.

*Biochemical oxygen demand (BOD)* means the quantity of dissolved oxygen, expressed in milligrams per liter by weight, used in the biochemical oxidation of wastewater in five days at 20 degrees Celsius (68 degrees Fahrenheit) under standard laboratory procedures.

*Building sewer* means the extension from a building plumbing connection, from a point five feet from the face of the building to the public sewer, private sewer or other place of disposal.

*Categorical pretreatment standards* means the national pretreatment standards specifying quantities or concentrations of pollutant properties which may be discharged or introduced into municipally owned wastewater facilities by specific industrial dischargers.

*Chlorine demand* means the amount of chlorine, expressed in milligrams per liter, required to be added to water, wastewater, or other liquid to achieve a combined chlorine residual after 15 minutes, as specified in the city's NPDES permit.

*Combined sewer* means a sewer receiving both wastewater and surface runoff from storms.

*Director* means the director of public works of the city. As a general matter, the director shall act after being advised by the pretreatment manager.

*Domestic wastewater* means a liquid waste discharged from the sanitary conveniences, such as toilets, washrooms, urinals, sinks, showers, drinking fountains, home laundries, and from kitchens, cafeterias and floor drains of dwellings, offices, business buildings, schools, recreational facilities, etc., essentially free of industrial wastes or toxic materials. Such wastewater may or may not contain groundwater or surface runoff.

*Drain* means "storm drain," as defined in this section.

*Environmental specialist* means the director of the department of public works.

*Excessive* means amounts or concentrations of a constituent of wastewater which, in the judgment of the director:

- (1) Will cause damage to any facility;
- (2) Will be harmful to a wastewater treatment process;
- (3) Cannot be removed in the treatment works to the degree required in the limiting stream classification standards of the Saco River;
- (4) Can otherwise endanger life or property; or
- (5) Can constitute a nuisance.

*Facilities* includes structures, conduits, pumping stations, treatment and disposal works, and other appurtenances for the purpose of collecting, treating and disposing of domestic and/or industrial wastewater.

*Garbage* means the wastes resulting from the handling, preparation, cooking and serving of food. It is composed largely of putrescible organic matter and its natural moisture content.

*Industrial wastewater* means the liquid waste from industrial manufacturing processes, laboratories, trades or businesses in which chemical or biological wastes predominate over domestic wastes; such term includes, but is not limited to, the liquid waste from hospitals, commercial laundries, car washes, etc.

*Industry* means an establishment with facilities for manufacturing, testing, research, altering or repairing of goods for sale or other purposes.

*Interference* means the inhibition or disruption of the city sewer system, treatment process or operation which causes or contributes to a violation of any requirement of the NPDES permit or which prevents sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations):

- (1) Section 405 of the Clean Water Act.
- (2) The Solid Waste Disposal Act (including title D, more commonly referred to as the Resource Conservation and Recovery Act, and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the Solid Waste Disposal Act).

- (3) The Clean Air Act.
- (4) The Toxic Substances Control Act.
- (5) The Marine Protection Research and Sanctions Act.

*Licensed utility contractor* means any contractor licensed by the city council to install building sewers and/or private sewers in the city.

*Local limit* means specific discharge limits developed and enforced by the City of Biddeford, Maine upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b) and Maine rules 06-096 Chapter 528.

*Natural outlet* means any outlet into a watercourse, ditch, pond, lake or other body of surface water or groundwater.

*NPDES* shall mean the national pollutant discharge elimination system permit program of the U.S. Environmental Protection Agency.

*Pass-through* means the discharge of pollutants in quantities or concentrations which are a cause of or significantly contribute to a violation of any requirement or condition of the user's permit, the city's ordinances, codes, regulations or national pollutant discharge elimination system permit, state or federal law.

*Person* means any individual, firm, company, association, society, corporation, group, trust, municipality or governmental authority

*pH* means the negative logarithm (base 10) of hydrogen ion activity in gram moles per liter of solution.

*Pressure sewer* means any pipe or conduit conveying wastewater from a low elevation to a higher elevation, and shall include force mains from lift stations, as well as inverted siphons.

*Pretreatment* means the application of physical, chemical, and/or biological processes to reduce the amount of pollutant in, or alter the nature of, the pollutant properties in wastewater prior to discharging such wastewater into the publicly owned sewer system.

*Pretreatment manager* means the individual whose job responsibilities include implementation of any industrial pretreatment program required by state or federal law. Any reference in this article to "environmental specialist" shall mean the pretreatment manager.

*Private sewer* means any sewer located on private property or private ways that collects wastewater from two or more building sewers and discharges into a public sewer or other receiving waters.

*Properly shredded garbage* means garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch (13 mm) in any dimension.

*Public sewer* means a sewer in which all owners of abutting properties have equal rights and which is controlled by city authority.

*Receiving waters* means any watercourse, river, pond, ditch, lake, aquifer, or any other body of surface water or groundwater receiving discharge of wastewaters.

*Sanitary sewer* means a sewer which carries domestic and/or industrial wastewaters and to which surface runoff from storms and groundwater is not intentionally admitted.

*Septage* means waste, refuse, effluent, sludge and any other materials from septic tanks, cesspools or any other similar facilities (30 M.R.S.A. § 1303(5)).

*Sewage* means wastewater, as defined in this section.

*Sewage, normal* means sewage, industrial wastes, or other wastes, which show, by analysis, the following characteristics:

- (1) B.O.D. (five-day)--250 mg/L average daily or 400 mg/L maximum daily.
- (2) Suspended solids--300 mg/L average daily or 500 mg/L maximum daily.
- (3) Chemical oxygen demand--350 mg/L average daily or 700 mg/L maximum daily.
- (4) Oil and grease--100 mg/L maximum.

*Sewage surcharge* means the demand payment for the use of a public sewer and/or sewage treatment plant for the handling of any sewage, industrial wastes, or other wastes accepted for admission thereto in which the characteristics therefor exceed the maximum values of such characteristics in normal sewage. (See volume charge.)

*Sewer* means any pipe or conduit conveying wastewater by means of gravity flow. Wherever the term "sewer" is used throughout this article, it shall mean "gravity sewer."

*Slug* means any discharge of water or wastewater which, in concentration of any given constituent, or in quantity of flow, exceeds, for any period of duration longer than 15

minutes, more than five times the average 24-hour concentrations or flow during normal operation.

*Storm drain* means a pipe or conduit for conveying water, groundwater, subsurface water, condensate, cooling water or other similar discharge, not including domestic wastewater and/or industrial wastes.

*Suspended solids (SS)* means solids that either float on the surface of, or are in suspension in, water, wastewater, or other liquids, and which are removable by laboratory filtering and are referred to as nonfilterable residue in the laboratory test prescribed in Standard Methods for the Examination of Water and Wastewater.

*Total toxic waste organics* means any element or compound, alone or in combination, which disrupts or inhibits the wastewater treatment process or operation or which causes or contributes to a violation of any requirements of the NPDES permit.

*Volume charge (user charge)* means the demand sewer use charge which is based, in part or wholly, on the volume of normal sewage discharged into the POTW. (There may be surcharges.) The volume charge shall be based on a specific cost for 100 cubic feet. The specific charge shall be developed by the Wastewater Management Commission and recommended to the council for final approval. The monies so obtained shall be used for current operation and maintenance, for retirement of bonded indebtedness, and for funding of capital projects, of the POTW. The basis of volume charge calculations shall be made available to the public, on demand. The volume charge shall be recalculated annually, as well as the surcharge rates.

*Wastes* means substances in liquid, solid or gaseous form that can be carried in water.

*Wastewater* means the spent water of the city, and may be a combination of the liquid and waterborne wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater and surface water that may be present.

*Wastewater treatment works* means any arrangement of devices and structures used for treating wastewater.

*Wastewater works* means all structures, equipment and processes for collecting, pumping, treating and disposing of wastewater (i.e., "sewer system").

(Code 1975, § 19-1.1; Ord. of 8-6-91, § 1)

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**Sec. 70-30. Powers and authority of inspectors; confidential information.**

- (a) The director shall be the enforcing officer of all provisions of this article, subject to the laws of the state, rules and regulations of the division of water pollution control, state department of natural resources, and the Environmental Protection Agency.
- (b) The director and other duly authorized employees of the city bearing the proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article. The municipality shall have the right to set up on the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations.
- (c) Information and data furnished to the city with respect to the nature and frequency of discharge shall be available to the public without restriction unless the discharger specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the discharger.

When requested by a discharger furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this article, the national pollutant discharge elimination system (NPDES) permit, state waste discharge license certificate and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the discharger furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the city as confidential shall not be transmitted to the general public by the city until and unless a ten-day notification is given to the discharger. No confidentiality agreement may be used to prohibit the disclosure of information to any governmental agency. Should a conflict arise between this section and the provisions of Ord. No. 2009.46 Chapter 71 regarding industrial pretreatment, the provisions of Ord. No. 2009.46 Chapter 71 as amended shall apply.

- (d) While performing any necessary work on private property, city personnel shall use their best efforts to observe all safety rules applicable to the premises, as those rules are made known to them.

(e) The director and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of wastewater works lying within such easement. All entry and subsequent work, if any, on such easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. This provision shall in no way limit the authority of the director and other duly authorized employees of the city bearing proper credentials and identification under subsection (b) of this section.

(Code 1975, § 19-7)

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**Sec. 70-31. Enforcement of article; violations and penalties.**

In addition to any other enforcement methods provided for in this article, the provisions of this article may be enforced as follows:

(1) The pretreatment manager Director or his designee may issue a written administrative complaint if there are reasonable grounds to believe that the person to whom the complaint is directed has violated:

- a. This article;
- b. Any rule or regulation adopted under this article; or
- c. Any order or permit issued under this article.

(2) The administrative complaint shall specify the provision that allegedly was violated, and state the alleged facts that constitute the violation.

(3) After or concurrently with service of a complaint issued under subsection (1) of this section, the pretreatment manager Director or his designee may:

- a. Issue an order that requires the person to whom the order is directed to take corrective action within a time set in the order;
- b. Send a written notice that requires the person to whom the notice is directed to file a written report about the alleged violation; or
- c. Send a written notice that requires the person to whom the notice is directed to:

1. Appear at a hearing, at a time and place scheduled, in order to answer the charges in the complaint.
2. File a written report and also appear at a hearing at a time and place set to answer to charges in the complaint.

Any order issued is effective immediately according to its terms, when served.

(4) Within ten days after being served with an order issued under subsection (3) of this section, the person served may request a hearing before the wastewater management commission by filing a written request for such a hearing with the pretreatment manager. In connection with any hearing, the pretreatment manager may subpoena, in the name of the wastewater management commission, any person or evidence, and order a witness to give evidence. A subpoenaed witness shall receive the same fees and mileage reimbursement as if the hearing were part of a civil action.

(5) Unless the person served with an order issued under subsection (3) of this section, makes a timely request for a hearing, the order is a final order. If the person served with an order makes a timely request for a hearing, the order becomes a final corrective order when the wastewater management commission renders a decision following the hearing. This subsection does not prevent the city or any other governmental agency from taking appropriate action against a violator before the expiration of the time limitations or schedules in the order.

(6) The following provisions govern the procedure before the wastewater management commission for hearings held under subsection (5) of this section:

- a. The commission may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial or unduly repetitious evidence. Every party has the right to present the party's case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct any cross-examination that is required for a full and true disclosure of the facts.
- b. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceeding, constitute the record. All decisions become a part of the record and must include a statement of findings and conclusions, as well as the reasons or basis for the findings and conclusions, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial of relief.
- c. The commission may reconsider any decision reached under this section within 30 days of its prior decision. The commission may conduct additional hearings and receive additional evidence and testimony.

d. Any party may take an appeal, within 30 days after the decision is rendered, to the superior court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, rule 80B.

(7) The violation of any provision of this article is deemed a nuisance. The city solicitor may bring an action for an injunction against any person who violates any provision of this article or any rule, regulation, order, or permit adopted or issued under this article. In any action for an injunction, any finding after a hearing held under subsection (6) of this section, is prima facie evidence of each fact determined after that hearing.

(8) In addition to being subject to an injunctive action, a person who violates any provision of this article or any rule, regulation, order, or permit adopted or issued under this article is subject to a civil forfeiture of not less than \$1,000.00 nor more than \$2,500.00 per violation per day, to be collected in a civil enforcement proceeding. Any discharger violating any of the provisions of this article or of any rule, regulation, order, or permit adopted or issued under this article or who discharges or causes a discharge producing a deposit or obstruction or causes damage to or impairs the city's wastewater facilities is liable to the city for any expense, loss or damage caused by such violation or discharge. The city shall bill the discharger for the cost incurred by the city for any cleaning, repair or replacement work caused by the violation or discharge. Refusal to pay the assessed cost constitutes a separate violation of this article.

(9) In addition to being in violation of this article, a person is subject to a civil forfeiture of \$10,000.00 if the person:

a. Knowingly makes any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained under this article, or any rule, regulation, order, or permit adopted or issued under this article; or

b. Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this article or any rule, regulation, order, or permit adopted or issued under this article.

(10) If the city is the prevailing party, it shall be awarded reasonable attorneys' fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust.

(11) In the event of a conflict between this Article and Ord. No. 2009.46 Chapter 71 as may be amended regarding industrial pretreatment, the provisions of Ord. No. 2009.46 Chapter 71 shall prevail.

(Code 1975, § 19-8)

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**Sec. 70-32. User fees.**

(a) *Purposes.* It is the purpose of this section to establish proportionate user charges that place the cost of abatement directly on the sources of pollution, conserve potable water, and maintain financial self-sufficiency. It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the city to collect charges from all users who contribute wastewater to the city's treatment works. The proceeds of such charges so derived will be used for the purpose of operating and maintaining the public waste water treatment works and providing for future needs.

(b) *Definitions.* As used in this section, the following terms have the following meanings:

(1) *COD (Chemical Oxygen Demand)* shall mean the amount of oxygen required for the chemical oxidation of carbonaceous (organic) materials in wastewater using inorganic dichromate as oxidants in a two-hour test.

(2) *Commercial user* shall mean all retail stores, restaurants, office buildings, laundries and other private business and service establishments.

(3) *Industrial user* shall include any non-governmental, non-residential user of publicly-owned treatment works which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under the following divisions: Division A--Agriculture, Forestry, and Fishing; Division B--Mining; Division D--Manufacturing; Division E--Transportation, Communications, Electric, Gas and Sanitary; and Division 1--Services.

(4) *Operation and maintenance* shall mean those functions that result in expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for managing and which such works were designed and constructed.

(5) *Replacement* shall mean expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

(6) *Residential user* shall mean any contributor to the city's treatment works whose lot, parcel or real estate, or building is used for domestic dwelling purposes only, but not including hotels, motels, boarding houses, tourist homes or bed and breakfast establishments.

(7) *Useful life* shall mean the estimated period during which a treatment work will be operated.

(8) *User charge* shall mean that portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance, replacement and debt service of the wastewater treatment works.

(9) *Water company* shall mean the Biddeford-Saco Water Company.

(10) *Water meter* shall mean a water volume measuring and recording device, furnished and/or installed by a user and owned by the water company or the environmental specialist.

(c) *Revenues; use.*

(1) The revenues collected, as a result of the user charges levied, shall be deposited in a separate non-lapsing fund known as the Sewer System Operation, Maintenance Replacement Fund and Debt Retirement Fund (or "Fund").

(2) Fiscal year-end balances in the fund shall be used for no other purposes than those designated. Monies which have been transferred from other sources to meet temporary shortages in the fund shall be returned to their respective accounts upon appropriation adjustment of the user charge rates for operation, maintenance replacement and debt retirement. The user charge rates shall be adjusted such that the transferred monies will be returned to their respective accounts within six months of the fiscal year in which the monies were borrowed.

(d) *Rates.*

(1) Each user shall pay for the services provided by the city based on his use of the treatment works as determined by his water consumption according to methods recommended by the environmental specialist. The cost of treating inflow and infiltration shall be shared by all users as part of the user rate.

(2) For residential users, quarterly user charges will be based on actual water usage as determined by the water company's meter readings. Commercial and industrial users, who are billed by the Biddeford and Saco Water Company on a monthly basis, will also

receive sewer user charges on monthly basis. If a user discharges water into the city's collection system, which has been obtained from a source other than the water company, the user shall install and maintain a meter to measure such discharge. All such meters must be inspected and approved by the superintendent and must be available for inspections during the year by the city. If a residential, commercial, industrial, or institutional user has a consumptive use of water, or, in some other manner, uses water which is not discharged into the collection system, the user charge for that contributor may be based on readings of wastewater meter(s) or a separate water meter(s) (sub-meter), which must be purchased through the city to ensure conformity and calibration, and installed and maintained at the user's expense.

(3) Each monthly or quarterly user shall pay the set rate and minimum fee based on usage that has been established by the city council for the current fiscal year based on recommendations of the wastewater management commission.

(4) For those users whose wastewater has a greater strength than normal domestic sewage, a surcharge in addition to the normal user charge, will be collected. The surcharge for operation and maintenance including replacement is:

\$5.50 per 100 pounds BOD and COD.

\$7.50 per 100 pounds SS.

\$0.10 per pound other pollutant(s).

(5) Any user who discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge or any user who discharges any substance which singly, or by interaction with other substances, causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works, shall pay for such increased costs. The charge to each such user shall be as determined by the appropriate financial personnel and approved by the city council.

(6) The user charge rates established in the section apply to all users of the city's treatment works.

(e) *Billing; collection.*

(1) All users shall be billed quarterly or monthly, as the case may be. Billings for any particular quarter shall be made within 20 days after the end of a quarter. Any payment not received within 30 days after the date of billing is delinquent.

(2) A late payment penalty of one percent of the user charge bill will be added to each delinquent bill for each 30 days, or portion thereof, of delinquency.

(3) When any bill (including interest penalty) remains unpaid for one year after the date due, such bill is subject to lien proceedings under law. If any such lien (including interest and penalty) remains unpaid for a period of one year after date of recordation, such property shall be subject to sale procedures authorized by law.

(4) The city may recover any outstanding balance by any other method authorized by law. As part of the costs of recovering any outstanding balance the city is entitled to an award of reasonable attorneys' fees.

(5) For purposes of this section, "user" means the owner of real estate served by the sewer system or the person against whom taxes on that real estate are assessed.

(f) *Waste of unusual strength.* All users contributing more than 750,000 gallons per month and whose waste strength is greater than normal sewage shall prepare and file with the environmental specialist a report that shall include pertinent data relating to the wastewater characteristics, including the methods of sampling and measurement to obtain these data, and these data be used to calculate the use charge for the user. The city may inspect the waste stream and take its own samples. Should the city do so and should the results be substantially different, as determined by the environmental specialist, from the data submitted by the user, the user charge for that user shall be revised for the next billing cycle/period. The requirements of this section may be satisfied by complying with the applicable provisions of Ord. No. 2009.46 Chapter 71 as may be amended.

(g) *Review of charge.*

(1) Any user who feels his sewer bill is in error may make written application to the commission requesting a review of his/her user charge. Said written request shall, where necessary, show the actual or estimated average flow and/or strength of his/her wastewater in comparison with the values upon which the charge is based, including how the measurements or estimates were made.

(2) In lieu of abatement - request of payment equal to last quarter/monthly amount to be based on previous history before coming to the wastewater commission, if there is no previous history, amount must be paid in full.

(3) Review of the request shall be made by the commission and, if substantiated, the commission shall direct that appropriate action be taken. Any charge abated shall become a credit against the next billing period if under \$50.00 and refunded if over \$50.00.

(h) *Review of rates.*

(1) During the first year after enactment of this article, the city council shall review the user charges quarterly and revise the rates as necessary to ensure that adequate revenues are generated to pay the costs of operation and maintenance including replacement and debt retirement and that the system continues to provide for the proportional distribution of such costs among users and user classes. During subsequent years, the city council shall review and, if necessary, revise the rates at least semi-annually.

(2) The city will notify each user at least annually of the rate being charged under this article.

(i) *Measurement of flow.* The volume of flow to be used in computing sewer service charges and abnormal sewage surcharges shall be based upon metered water consumption as shown on the records of meter readings maintained by the Biddeford and Saco Water Company. In the event that a person discharging wastes into the POTW produces evidence, to the Wastewater Management Commission demonstrating that a substantial portion of the total amount of metered water does not reach the POTW, then the commission shall either establish a percentage of the total metered water to be used as a basis for such computations, or direct the installation of appropriate flow measuring (and totalizing) devices to measure and record the actual amount of flow into the POTW. In the event that a person discharging wastes into the POTW procures all or part of his water supply from un-metered sources, the commission shall either direct the installation of water meters of the other sources of water supply, or direct the installation of appropriate flow measuring devices to measure and record the actual amount of flow into the POTW. Any water meters and/or flow measuring devices installed pursuant to this section shall be of a type and design acceptable to the commission and shall be installed, maintained, and periodically tested as required by the owner, at his expense. All such meters and/or flow measuring devices shall be subject to periodic inspection, testing, and reading by the City of Biddeford. Any person discharging wastes into the POTW may install a flow measuring device at his option, of the type, design, installation, and maintenance standards of the superintendent, at the owner's expense.

(Ord. of 8-6-91, § 2; Ord. No. 2000.110, 10-26-00; Ord. No. 2001.16, 3-8-01; Ord. No. 2001.27, 4-17-01; Ord. No. 2001.89, 10-16-01)

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**Sec. 70-59. Permit classes; application; fees.**

There shall be two classes of building sewer and/or private sewer permits:

- (1) For residential and commercial service; and
- (2) For service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the director. A permit, inspection, and inflow/infiltration fee for a residential or commercial building sewer and/or private sewer permit, and for an industrial building sewer and/or private sewer permit, shall be paid to the city at the time the application is filed. See also Ord. No. 2009.46, Chapter 71 as may be amended.

(Code 1975, § 19-3(4))

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**Sec. 70-61. Permit for connection into public sewer.**

(a) *Issuance; records.* The director may grant permits to licensed utility contractors to connect building sewers or drains into the public sewers or drains, or into private sewers or drains entering such public sewers or drains, in accordance with the terms of this article and the rules and regulations made therefor by the city council. The director shall cause to be kept a complete record of all such permits granted, giving the name of the street and the number of the estate, if any, the name of the owner or owners, and of the applicant for such permit, the size and kind of drain or sewer entered, the name of the contractor making the entrance, and such other facts in connection therewith as may be of importance as matters of record.

(b) *Application; excavation permit; notice of change in volume of industrial discharge.* Applications for permits to connect any private drain with a public drain, or with a private drain entering such public sewer or drain, must be made in writing to the director by a licensed utility contractor at least 45 days prior to the proposed connection. Such applications must be accompanied by a clear description of the premises to be drained and of the drains required. All such applications must include an agreement on the part of the contractor to abide by all the provisions of this article and applicable provisions of section 62-161 et seq., and to waive claim for damage in case of revocation as provided in this division. Issuance of such permit shall not relieve the licensed utility contractor of the need to obtain an excavation permit under section 62-161 et seq. A written statement from the property owner authorizing the contractor to install a building sewer to serve his specified property must be presented with the application. Once connected into the system, any industrial user that proposes a substantial change in the volume or

nature of the pollutants being discharged must notify the director at least 45 days prior to the proposed change for his approval or as otherwise required in Ord. No. 2009.46 Chapter 71 as applicable.

(Code 1975, § 19-3(6), (7))

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**Sec. 70-86. Prohibited discharges.**

(a) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers or drains:

- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
- (2) Any pollutants, including, without limitation, oxygen demanding pollutants, either singly or by interaction with other wastes, in sufficient quantity to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a public nuisance, or are not susceptible to treatment or which may interfere with the biological processes or efficiency of the treatment system, or that will pass through the system or create any hazard in the receiving waters of the wastewater treatment plant or causing any other interference.
- (3) Any acidic waters or wastes having a pH lower than 5.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works. Prohibited materials include, but are not limited to, acids, sulfides, concentrated chloride and fluoride compounds and substances which will react with water to form acidic products.
- (4) Solid or vicious substances in quantities or of such size as would be capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater works, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders, unless approved in writing by the director.
- (5) Any liquid or vapor having a temperature higher than 150 140 degrees Fahrenheit (65 60 degrees Celsius); provided, that such discharges do not result in a temperature at the plant influent greater than 104 degrees Fahrenheit (40 degrees Celsius). In such cases

where the 104 degrees Fahrenheit (40 degrees Celsius) influent criterion is violated, the temperature of the wastewater from the industrial user shall be lowered to a point that will be determined by the director.

(6) National categorical pretreatment standards as promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to the act shall be met by all dischargers. An application for modification of the national categorical pretreatment standards may be considered for submittal to the regional administrator by the city when the city's wastewater treatment system achieves consistent removal of the pollutants as defined by 40 CFR 403.7.

(b) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the director that such wastes can harm either the sewers, wastewater treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, or public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant, degree of treatability of wastes in the wastewater treatment plant, and other pertinent factors. The substances prohibited are:

(1) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 200 milligrams per liter (mg/l) or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 140 degrees Fahrenheit (zero and 65 60 degrees Celsius).

(2) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 horsepower metric) or greater shall be subject to the review and approval of the director.

(3) Any waters or wastes containing strong acid, iron pickling wastes or concentrated plating solutions, whether neutralized or not.

(4) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding local limits as established in table A (section 70-91) published by the Director and as may be amended, or as established to meet the requirements of the state, federal or other public agencies or jurisdictions for such discharge to the receiving waters.

- (5) Any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the director in compliance with applicable state or federal regulations.
- (6) Any alkaline waters or wastes having a pH in excess of 9.0.
- (7) Materials which exert or cause:
  - a. Unusual concentrations of inert suspended solids, such as, but not limited to, fuller's earth, lime slurries and lime residues, or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate). See table A, section 70-91.
  - b. Color or turbidity in such an amount that it will prevent the city from discharging a treated effluent in compliance with the water quality standards.
  - c. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment plant.
  - d. Unusual volume of flow or concentration of wastes constituting slugs.
- (8) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment plant processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (9) Septic tank solids that are not diluted sufficiently to assure that all particles will be carried freely under all flow conditions in the wastewater facilities.
- (10) Any waters containing metals such as, but not limited to, iron, chromium, copper and zinc, and similar hazardous or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment plant exceeds the local limits established in table A, section 70-91, or by the Director pretreatment manager for such material.
- (11) Any waters containing organic compounds such as volatile organics, semivolatile organics, pesticides and similar hazardous or toxic substances to such a degree that any such material received in the composite wastewater at the wastewater treatment plant exceeds the limits established by the director for such materials.
- (12) Any noxious or malodorous liquids, gases or solids which, either singly or by interaction, are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.

(13) Any substance which may cause the city's wastewater facilities effluent or residues, sludges or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process.

(14) Any substance which will cause the city wastewater facility to violate its NPDES permit and/or state waste discharge license certificate.

(15) Any substance with objectionable color not removed in the wastewater treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(16) Any wastewater which causes a hazard to human life or creates a public nuisance.

(Code 1975, § 19-4(a), (b))

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**Sec. 70-87. Additional limitations authorized.**

The city reserves the right to amend this article to provide for more stringent limitations or requirements on discharges to the city wastewater facilities where deemed necessary to comply with objectives set forth in this article and the provisions of Ord. No. 2009.46 Chapter 71 et seq., as amended.

(Code 1975, § 19-4(c))

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**Sec. 70-89. Dilution of discharge.**

No discharger shall increase the use of potable or process water in any way for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this division or Ord. No. 2009.46 Chapter 71 et seq., as amended.

(Code 1975, § 19-4(c))

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**Sec. 70-90. Protection from accidental discharge of prohibited material; notification requirements.**

(a) Each discharger shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this division. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the discharger's cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review and shall be approved by the city before construction of the facility. Review and approval of such plans and operating procedures by the city shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this section.

(b) Dischargers shall notify the city immediately upon the occurrence of a slug or accidental discharge of substance prohibited by this division. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions taken. Any discharger who discharges slugs of prohibited materials shall be liable for any expense, loss or damage to the city wastewater facility in addition to the amount of any fines imposed on the city on account thereof under state or federal law.

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

(d) If, for any reason, a facility does not comply with or will be unable to meet any prohibition or limitations in this division, the facility responsible for such discharge shall immediately notify the director so that corrective action may be taken to protect the treatment system. In addition, a written report addressed to the director detailing the date, time and cause of the accidental discharge, the quantity and characteristics of the discharge and corrective action taken to prevent future discharges shall be filed by the responsible industrial facility within seven calendar days of the occurrence of the noncomplying discharge.

(e) Users subject to industrial pretreatment must comply with the provisions of Ord. No. 2009.46 Chapter 71 as may be amended.

(Code 1975, § 19-4(c))

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**Sec. 70-91. Discharge limitations; enforcement of unlawful discharges.**

(a) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain substances in excess of the local limits set forth in table A or possess the characteristics which, in the judgment of the director, may have a deleterious effect upon the wastewater works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the director may:

- (1) Reject the wastes.
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers as per Ord. No. 2009.46 Chapter 71 as may be amended.
- (3) Require control over the quantities and rates of discharge.
- (4) Require payment of a surcharge to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges. The amount to be assessed shall include not only the aforementioned costs but also costs of ascertaining responsibilities; the surcharges shall be assessed for the conventional pollutants of BOD, COD and TSS. Surcharges will be assessed per 100 pounds of pollutant discharged. The 24-hour average concentration for BOD is 250 mg/l; for COD is 500 mg/l; and for TSS is 300 mg/l. Surcharges will be assessed for the higher of the two BOD or COD but not for both. The rate per 100 pounds shall be fixed by the council upon recommendation of the wastewater management commission. In no case shall the pollutant concentration exceed the local limit daily maximum for BOD, COD or TSS as outlined in table A.
- (5) Take such other remedial action as may be deemed to be desirable or necessary to achieve the purpose of this division.

(b) The director shall notify in writing any owner or other person violating any of the provisions of this division, stating specifically the nature and degree of the violation and establishing a reasonable time limit within which the violation is to be eliminated (see subsection 70-31(1)). Failure to meet the time limit shall be considered a violation of the provisions of this section.

TABLE A

TABLE INSET:

Constituent	Daily Maximum	Average (24-hour)
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	Concentration (mg/l)	Concentration (mg/l)
Ammonia (total nitrogen)	200	175
Antimony	5.0	2.5
Arsenic	4.0	2.0
BOD (five-day)	400	250
Boron	25	15
Cadmium	0.4	0.2
Calcium	100	75
Chloride	500	400
Chromium (total)	3.0	1.0
Chromium VI	0.15	0.1
COD	700	500
Copper	10	5.0
Cyanide	4.0	0.4
Dissolved solids	600	500
Fluoride	1.5	1.5
Iron	10.0	5.0
Lead	2.0	1.0
Magnesium	100	50
Manganese	50	25
Mercury	0.2	0.1
Nickel	2.0	1.0
Oil and grease	100	100
Phenol	0.1	0.1
Potassium	100	50
Settable solids	300	200
Silver	2.0	1.0
Sulfate as SO <sub>4</sub>	250	150
Sulfide as S	1.0	0.75
Suspended solids	400	300
Total toxic organics	4.0	4.0
Zinc	10.0	5.0

(Code 1975, § 19-4(d))

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**Sec. 70-92. Pretreatment or equalization requirements; approval required for discharge of beryllium, mercury, arsenic or selenium.**

If the director permits or requires the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the director, and subject to the requirements of all applicable codes, ordinances and laws, and all federal and state pretreatment requirements. Any waters or wastes containing heavy metals, including, but not limited to, arsenic, barium, cadmium, chromium, cobalt, copper, lead, nickel, tin, silver, gold or zinc, will require approval of the Director prior to pretreatment before discharge to the city's system. Pretreatment requirements shall be as authorized in Ord. No. 2009.46 Chapter 71 as may be amended shall be such as to reduce the concentration of heavy metals by appropriate methods in the pretreatment system effluent to a level equal to or less than the solubility of the oxide or hydroxide of the heavy metal. Sludges resulting from the pretreatment process may not be discharged to the sewer system. Stricter limits may be imposed if it is found necessary to meet water quality standards. Industries discharging or requesting to discharge beryllium, mercury, arsenic or selenium in any quantity will additionally obtain approval of the division of water pollution control.

(Code 1975, § 19-4(e))

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**Sec. 70-97. Industrial discharge permit system.**

(a) All industrial users proposing to connect to or discharge into any part of the wastewater treatment system must first obtain a discharge permit in accordance with Ord. No. 2009.46 Chapter 71 as may be amended. Therefore, all existing industrial users connected to or discharging to any part of the city system must file a completed wastewater discharge permit application within 60 days from and after being notified by the city.

(b) Industrial users seeking a wastewater discharge permit shall complete and file with the director an application on the form prescribed by the director. After evaluation and acceptance of the data furnished in the application form, the director may issue a wastewater discharge permit subject to terms and conditions provided in this article.

(c) Wastewater discharge permits shall be expressly subject to all provisions of this division and all other regulations, user charges and fees established by the city. The conditions of wastewater discharge permits shall be uniformly enforced in accordance with this division and applicable state and federal regulations.

(d) Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period of less than one year, or may be stated to expire on a specific date. The terms and conditions of the permit may be subject to modification and change by the director during the life of the permit, as limitations or requirements as identified in this division are modified and changed.

The user should be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any change or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Wastewater discharge permits are issued to a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner or a new user, different premises, or a new or changed operation.

(f) Any user who violates the following conditions of his wastewater discharge permit or of this division, or of applicable state and federal regulations, is subject to having his permit revoked. Violations subjecting a user to possible revocation of his permit include, but are not limited to, the following:

- (1) Failure of a user to accurately report the wastewater constituents and characteristics of his discharge;
- (2) Failure of the user to report significant changes in operations or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for purposes of inspection or monitoring; and
- (4) Violation of conditions of the permit.

(Code 1975, § 19-4(k))

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**Sec. 70-98. Administration.**

(a) It shall be unlawful to discharge sewage, industrial wastes or other wastes to any sewer outlet within the jurisdiction of the city and to the city wastewater facilities without having first complied with the terms of this division.

(b) Industrial dischargers shall complete and file with the city a disclosure declaration in the form prescribed by the city, and accompanied by the appropriate fee. Existing industrial dischargers shall file disclosure forms within 60 days after being notified by the city, and proposed new dischargers shall file disclosure forms at least 90 days prior to connecting to the city wastewater facilities. The disclosure to be made by the discharger shall be made on written forms provided by the city and shall cover in accordance with Ord. No. 2009.46 Chapter 71 as may be amended.:

(1) Disclosure of name, address and location of the discharger.

(2) Disclosure of standard industrial classification (SIC) number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.

(3) Disclosure of known or suspected to be present wastewater constituents and characteristics including, but not limited to, those mentioned in this division. Any sampling and analysis that is required by the city shall be performed in accordance with procedures established by the U.S. EPA and contained in 40 CFR 136, as amended.

(4) Disclosure of time and duration of discharges.

(5) Disclosure of average daily and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the city due to cost or nonfeasibility.

(6) Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.

(7) Description of activities, facilities and plant processes on the premises, including all materials which are or may be discharged to the sewer works of the city.

(8) Disclosure of the nature and concentration of any known or suspected pollutants or materials prohibited by this division in the discharge, together with a statement regarding whether or not compliance with this division is being achieved on a consistent basis and if not, whether additional operations and maintenance activities and/or additional pretreatment is required for the discharger to comply with this division.

(9) Where additional pretreatment and/or operation and maintenance activities will be required to comply with this division, the discharger shall provide a declaration of the shortest schedule by which the discharger will provide such additional pretreatment and/or implementation of additional operational and maintenance activities.

a. The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the discharger to comply with the requirements of this division including, but not limited to, dates relating to hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this section.

b. Under no circumstances shall the city permit a time increment for any single step directed toward compliance which exceeds nine months.

c. Not later than 14 days following each milestone date in the schedule and the final date for compliance, the discharger shall submit a progress report to the city including no less than a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the discharger to return the construction to the approved schedule. In no event shall more than nine months elapse between such progress reports to the city.

(10) Disclosure of each product produced by type, amount, process or processes and rate of production.

(11) Disclosure of the type and amount of raw materials utilized (average and maximum per day).

(12) All disclosure forms shall be signed by the principal executive officer of the discharger and a qualified engineer.

(13) All sewers shall have an inspection and sampling manhole or structure with an opening of no less than 24 inches in diameter and an internal diameter of no less than 36 inches containing flow measuring, recording and sampling equipment as required by the city to assure compliance with this division.

The city will evaluate the complete disclosure form and data furnished by the discharger and may require additional information. Within 30 days after full evaluation and acceptance of the data furnished, the city shall notify the discharger of the city's acceptance thereof.

(c) The city reserves the right to amend this division and the terms and conditions hereof in order to assure compliance by the city with applicable laws and regulations. Within nine months of the promulgation of a national categorical pretreatment standard, this division shall be amended to require compliance by discharges with such standards within the time frame prescribed by such standards. All national categorical pretreatment standards adopted after the promulgation of this division shall be adopted by the city as part of this division. Where a discharger subject to a national categorical pretreatment standard has not previously submitted a disclosure form as required by this division, the discharger shall file a disclosure form with the city within 180 days after the promulgation of the applicable national categorical pretreatment standard by the U.S. EPA. In addition, any discharger operating on the basis of a previous filing of a disclosure statement shall submit to the city, within 180 days after the promulgation of an applicable national categorical pretreatment standard, the additional information required by subsections (b)(8) and (b)(9) of this section. The discharger shall be informed of any proposed changes at least 30 days prior to the effective date of change. Any changes or new conditions under this division shall include a reasonable time schedule for compliance.

(d) Within 90 days following the date for final compliance by the discharger with applicable pretreatment standards set forth in this division or 90 days following commencement of the introduction of wastewater into the city wastewater facilities by a new discharger, any discharger subject to this division shall submit to the city a report indicating the nature and concentration of all known or suspected prohibited and/or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the discharge into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the discharger, and certified to by a qualified engineer.

(e) Any discharger subject to a national categorical pretreatment standard set forth in this division, after the compliance date of such national categorical pretreatment standard, or, in the case of a new discharger, after commencement of the discharge to the city, shall submit to the city during the months of June and December, unless required more frequently by the city, a report indicating the nature and concentrations of known or suspected prohibited and/or regulated substances in the effluent which are limited by the national categorical pretreatment standards of this division.

In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period. Flows shall be reported on the basis of actual measurement provided; however, where cost or feasibility considerations justify, the city may accept reports of average and maximum flows estimated by verifiable techniques. The city, for

good cause shown, considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors, may authorize the submission of such reports on months other than those specified in this section.

Reports of dischargers shall contain all results of sampling and analysis of the discharge, including the flow, the nature and concentrations, or production and mass where required by the city. The frequency of monitoring by the discharger shall be as prescribed in the applicable national categorical pretreatment standard of this division. All analysis shall be performed in accordance with 40 CFR 136, and amendments thereto. (Comment: Where 40 CFR 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator of the U.S. EPA.)

(f) Each discharger shall provide and operate at the discharger's own expense a monitoring facility to allow inspections, sampling and flow measurements of each sewer discharge to the city. Each monitoring facility shall be situated on the discharger's premises, except that, where such a location would be impractical or cause undue hardship on the discharger, the city may concur with the facility being constructed in the public street or sidewalk area, provided that the facility is located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the discharger.

All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. Construction shall be completed within 120 days of receipt of permit by the discharger.

(g) All industrial dischargers proposing to connect to or to discharge sewage, industrial wastes and other wastes to the city wastewater facilities shall comply with all terms of this division within 90 days after the effective date of this division.

(Code 1975, § 19-4(1))

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**Sec. 70-101. Fees.**

(a) It is the purpose of this division to provide for the payment of fees from dischargers to the city's wastewater disposal system, to compensate the city for the cost of administration of the pretreatment program established in this division Ord. No. 2009.46 Chapter 71 as may be amended.

(b) The city shall adopt charges and fees which may include:

- (1) Fees for monitoring, inspections and surveillance procedures.
- (2) Fees for filing appeals.
- (3) Fees for reviewing accidental discharge procedures and proposed construction work at the industrial discharger's facility.
- (4) Analysis of compliance monitoring conducted by the POTW on an industrial user's waste stream, which shall be billed directly to that industrial user.

(Code 1975, § 19-4(o))

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**Sec. 70-102. Industrial wastewater monitoring and reporting. [Repealed]**

**This section is addressed in Ord. No. 2009.46 Chapter 71.**

(a) *Discharge reports.*

(1) Every significant industrial user shall file a periodic discharge report at such intervals as designated by the director. The director may require any other industrial users discharging or proposing to discharge into the treatment system to file such periodic reports.

(2) The discharge report shall include, but, in the discretion of the director, shall not be limited to, nature of process, volume, rates of flow, mass emission rate, production quantities, hours of operation, concentrations of controlled pollutants, or other information which relates to the generation of waste. Such reports may also include the chemical constituents and quantity of liquid materials stored on-site even though they are not normally discharged. In addition to discharge reports, the director may require information in the form of self-monitoring reports. The discharge and/or self-monitoring

reports shall be signed by the principal executive officer of the discharger and a qualified engineer.

(b) *Records and monitoring.*

(1) All industrial users who discharge or propose to discharge wastewaters to the wastewater treatment system shall maintain such records of production and related factors, effluent flows, and pollutant amounts or concentrations as are necessary to demonstrate compliance with the requirements of this division and any applicable state or federal pretreatment standards or requirements.

(2) Such records shall be made available upon request by the director. The director shall have authority to copy such records. All such records relating to compliance with pretreatment standards shall be made available to officials of the U.S. Environmental Protection Agency upon demand.

(3) The owner or operator of any premises or facility discharging industrial wastes into the system shall install at his own cost and expense suitable monitoring equipment to facilitate the accurate observation, sampling and measurement of wastes. Such equipment shall be maintained in proper working order and kept safe and accessible at all times.

(4) When more than one user can discharge into a common sewer, the director may require installation of separate monitoring equipment for each user. When there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the director may require that separate monitoring facilities be installed for each separate discharge.

(5) Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the director's requirements and all applicable construction standards and specifications.

(c) *Inspection, sampling and analysis.*

(1) *Compliance determinations.* Compliance determinations with respect to this division may be made on the basis of either instantaneous grab samples or composite samples of wastewater. Composite samples may be taken over a 24-hour period, or over a longer or shorter time span, as determined to be necessary by the director to meet the needs of specific circumstances.

(2) *Analysis of industrial wastewaters.* Laboratory analysis of industrial wastewater samples shall be performed in accordance with 40 CFR 136. Analysis of those pollutants not covered by 40 CFR 136 shall be performed in accordance with the Methods for

Chemical Analysis of Water and Waste, published by the U.S. Environmental Protection Agency.

(3) *Sample frequency.* Sampling of industrial wastewater for the purpose of compliance determination with respect to this division will be done at such intervals as the director may designate.

(Code 1975, § 19-4(s))

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**Sec. 70-103. Miscellaneous provisions.**

(a) Where applicable, the city may elect to initiate a program of removal credits as part of this division to reflect the city wastewater facility's ability to remove pollutants, in accordance with 40 CFR 403.7.

(b) The city may elect to adjust categorical pretreatment standards to reflect the presence of pollutants in the discharger's intake water, in accordance with 40 CFR 403.15.

(ca) If any provision, paragraph, word, subsection or section of this division is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, subsections and sections shall not be affected and shall continue in full force and effect.

(db) All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this division are hereby repealed to the extent of such inconsistency or conflict unless otherwise noted.

(Code 1975, § 19-4(p)--(r))

**ATTACHMENT B**

**Proposed Clarifications / Corrections**

**Ord. No. 2009.46 Chapter 71  
Sewer Use Ordinance – Industrial Pretreatment Program**

**Amend Title of Ordinance on page 1 as follows:**

ORDINANCE NO. [ ] 2009.46 CHAPTER 71 – INDUSTRIAL PRETREATMENT PROGRAM

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**2.4 Local Limits**

- A. The Director of Wastewater or his/her designee is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).
- B. The following pollutant limits are established to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the following Local Limits (Daily Maximum mg/L) unless otherwise authorized by permit.

5.0 to 11.5 s.u. pH (lower than 5.0 NEVER, higher than 11.45 for 5 minutes ONLY)

1,480	mg/l ammonia
0.400.10	mg/l arsenic
4,218	mg/l BOD5
0.23	mg/l cadmium
5.39	mg/l chromium (total)
0.80	mg/l copper
0.54	mg/l cyanide
0.52	mg/l lead
2,180 *	ng/l mercury
1.66	mg/l molybdenum
4.79	mg/l nickel
200	mg/l oil and/or grease
1.82	mg/l selenium
0.99	mg/l silver
2,426	mg/l total suspended solids
1.05	mg/l zinc
4.00	mg/L TTO (Total Toxic Organics)

\* Clean mercury is in ng/L and is set by State of Maine collected Data, this limit is suggestive and is not subject to violation, however, corrective pollution control measures may be Administered if the Clean mercury is above suggestive limit.

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Director of Wastewater or his/her designee may impose mass limitations in addition to the concentration-based limitations above.

- C. The Director of Wastewater or his/her designee, may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement Local Limits and the requirements of Section 2.1.

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#### **6.4 Periodic Compliance Reports**

- A. Except as specified in Section 6.4.C, all Significant Industrial Users must, at a frequency determined by the Director of Wastewater or his/her designee, submit no less than twice per year (by August 15 for January through June and by February 15 for July through December unless other dates are specified by the Director of Wastewater) 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 Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Director of Wastewater or his/her designee, or the Pretreatment Standard necessary to determine the compliance status of the User
- B. The City may authorize an Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

- (1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.
- (2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See Section 4.5A(8)
- (3) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
- (4) The request for a monitoring waiver must be signed in accordance with Section 1.4C, and include the certification statement in 6.14 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 the monitoring waiver by the Director of Wastewater or his/her designee must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Director of Wastewater or his/her designee for 3 years after expiration of the waiver.
- (7) Upon approval of the monitoring waiver and revision of the User's permit by the Director of Wastewater or his/her designee, the Industrial User must certify on each report with the statement in Section 6.14 C below, that there has been no increase in the pollutant in its waste stream due to activities of the Industrial User.
- (8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately comply with the monitoring requirements of Section 6.4 A, or other more frequent monitoring requirements imposed by the Director of

Wastewater or his/her designee, and notify the Director of Wastewater or his/her designee.

- (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 to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the State of Maine, where the Industrial User’s total categorical wastewater flow does not exceed any of the following:

- (1) 6,500 gallons is the POTW’s value for 0.01 percent of the POTW’s design dry-weather *hydraulic capacity* of the POTW, or five thousand 5,000 gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches;
- (2) 4120 lbs is the POTW’s value for 0.01 percent of the design dry-weather *organic treatment capacity* of the POTW; and
- (3) The POTW’s value for 0.01 percent 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 2.4 of this ordinance.

<b>Parameter</b>	<b>Allowable Headworks Loading (lbs)</b>	<b>0.01 % of Allowable Headworks Load (lbs)</b>
Ammonia	9200.4	92.0
Arsenic	2.470.06	0.02470.00062
BOD5	303098.1	3030.98
Cd	1.43	0.0143
Cr(T)	32.53	0.3253
Cu	6.65	0.0665
Total Cyanide	3.25	0.0325

Lead	3.25	0.0325
*Mercury (Clean)	0.0178	0.000178
Molybdenum	10.21	0.1021
Nickel	29.09	0.2909
Selenium	11.11	0.1111
Silver	6.02	0.0602
Total Suspended Solid	22329.1	223.291
Zinc	9.76	0.0976

\* Clean Mercury is not a proposed Local Limit but an investigative limit only.

Reduced reporting is not available to Industrial Users that have in the last two (2) years been in Significant Noncompliance, as defined in Section 9 of this ordinance. In addition, reduced reporting is not available to an Industrial User with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the Director of Wastewater or his/her designee, decreasing the reporting requirement for this Industrial 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 6.14 A of this ordinance.
- 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 a 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 in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Director of Wastewater or his/her designee, using the procedures prescribed in Section 6.11 of this ordinance, the results of this monitoring shall be included in the report.
- G. Users that send electronic (digital) documents to the City of Biddeford, Maine to satisfy the requirements of this Section must utilize the reporting templates provided

by the City and/or have a written statement from the IP Coordinator that any submissions in electronic format other than those provided by the City meet the requirements of the program. The preferred method of submittal is by PDF format but Word documents will also be accepted as well as scanned documents.

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**6.14 Certification Statements**

- A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver—The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 4.76; Users submitting baseline monitoring reports under Section 6.1 B (5); Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 6.3; Users submitting periodic compliance reports required by Section 6.4 A–D, and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 6.4B(4). The following certification statement must be signed by an Authorized Representative as defined in Section 1.4 C:

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 Director of Wastewater or his/her designee, pursuant to 1.4 GG(3) and 4.7 C must annually submit the following certification statement signed in accordance with the signatory requirements in 1.4 C. This certification must accompany an alternative report required by the Director of Wastewater or his/her designee:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR \_\_\_\_ [specify applicable National Pretreatment Standard part(s)], I certify that, to the

best of my knowledge and belief that during the period from \_\_\_\_\_,  
\_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_ [months, days, year]:

(a) The facility described as \_\_\_\_\_ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 1.4 GG (3);

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

\_\_\_\_\_  
\_\_\_\_\_

### C. Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 6.4 B must certify on each report with the following statement that there has been no increase in the pollutant in its waste stream due to activities of the User.

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

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### 10.3 Show Cause Hearing

The Director of Wastewater or his/her designee, may order a User which has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit,

or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Director of Wastewater or his/her designee, and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least [seven (7)] days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Section 1.4 C and required by Section 4.7 A. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

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**13.2 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 2.1(A) of this ordinance or the specific prohibitions in Sections 2.1(B)(31) through (718) of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

- A. A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- B. No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User’s prior discharge when the City of Biddeford, Maine was regularly in compliance with its MEPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.