

Chapter 6

ENVIRONMENT AND HEALTH

Industrial Pretreatment Program 6.501 - 6.596 & 6.995

6.501 Industrial Pretreatment Program - Declaration of Policy.

- (1) The provisions of sections 6.501 to 6.596 of this code set forth requirements for the industrial discharge of pollutants into the city wastewater system. The objectives of these sections are to:
 - (a) Prevent the discharge of pollutants into the city wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
 - (b) Prevent the discharge of pollutants into the city sewerage system which will pass through the system, inadequately treated, into receiving waters;
 - (c) Improve the opportunity to recycle and reclaim wastewater and sludge from the city wastewater system;
 - (d) Protect the health of the city's employees working in and around the city wastewater system.
- (2) In achieving the objectives of sections 6.501 to 6.596 of this code it shall be the policy of the city to actively support the community's commerce and industry through accommodation, assistance and cooperation consistent with the city's responsibility to protect the waters of the state from pollution and to secure the health, safety and welfare of the residents of the metropolitan area.
- (3) Pollutants shall be accepted into the city wastewater system subject to regulations and requirements as may be promulgated by state and federal regulatory agencies or the city for the protection of sewerage facilities and treatment processes, public health and safety, receiving water quality and avoidance of nuisance. Pretreatment standards shall be developed to ensure that, at a minimum, the city and industrial users comply with Sections 307(b) and 307(c) of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 and the regulations promulgated pursuant to these sections of the Act, including but not limited to, 40 CFR Part 403 (General Pretreatment Regulations) and 40 CFR Chapter I Subchapter N (National Categorical Pretreatment Standards).
- (4) The city manager, in carrying out the provisions of sections 6.501 to 6.596 of this code regarding industrial discharge of pollutants by industrial users into the city wastewater system necessary for the proper disposal of wastewater and stormwater from the city and adjacent territory, is authorized, in his or her administrative discretion, to adopt and to promulgate as regulations any laws of the state or the federal government in accordance with the procedures of section 2.019 of this code. Discharge permit conditions shall be predicated on

federal, state and local regulations and requirements and on the results of analysis of the type, concentration, quantity and frequency of discharge including the geographical relationship of the point of discharge to sewerage and treatment facilities. Discharge permits may include, but shall not be limited to, conditions pertaining to discharge standards, self monitoring requirements, treatment methods, housekeeping practices, inventory storage, manufacturing methods, etc., that are intended to protect the waters of the state. Permit conditions shall be reevaluated upon expiration of the permit and may be revised by the city manager as required, to remain consistent with local, state or federal laws, regulations and requirements or to meet any emergency.

- (5) The city manager shall administer, implement, and enforce the provisions of sections 6.501 to 6.596 of this code to ensure that the city's pretreatment program complies with the objectives of sections 6.501 to 6.596 of this code, the applicable state and federal laws and regulations and the city's policy to cooperate with the state and federal government. Cross references in sections 6.501 to 6.596 of this code to other statutes and regulations are to the versions thereof in effect on the effective date of this ordinance.

(Section 6.501, formerly Section 6.400 added by Ordinance No. 19130, enacted April 13, 1983; amended by Ordinance No. 19791, enacted July 8, 1991; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993; and Ordinance No. 20075, enacted January 27, 1997, effective February 26, 1997.)

6.506 Industrial Pretreatment Program - Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in sections 6.501 to 6.596 of this code shall have the following meanings:

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

Authorized representative of industrial user. An authorized representative of an industrial user shall be:

- (a) A president, vice-president, secretary or treasurer in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, if the industrial user is a corporation.
- (b) A general partner or proprietor if the industrial user is a partnership or sole proprietorship, respectively; or
- (c) A duly authorized representative of the individual designated in (a) or (b) provided the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates or a position of equivalent responsibility or having overall responsibility for environmental matters for the company,

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is made in writing by an individual designated in (a) or (b) and such authorization is provided to the city prior to or together with any reports signed by an authorized representative as provided in 40 CFR 403.12(1) or required by the city manager.

BOD (Biochemical oxygen demand). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius expressed in milligrams per liter.

CFR. The referenced Code of Federal Regulations provision.

City manager. The city manager of the city of Eugene, or the city manager's designee.

City wastewater system. A treatment works as defined by section 212 of the Act. This definition includes any publicly owned sewer that convey wastewater to the treatment plant, whether or not a part of the regional sewerage facilities as defined in the Intergovernmental Agreement executed by the cities of Eugene and Springfield and Lane County as of February 9, 1977, as amended (Intergovernmental Agreement), but does not include the city stormwater system.

Constituent. Any pollutant regulated by section 6.501 to 6.596 of this code or by any permit issued pursuant to section 6.551 of this code, or any volume discharge limits established by a permit issued pursuant to section 6.551 of this code.

Cooling water. The water discharged from any use to which the only pollutant added is heat.

DEQ. The Oregon Department of Environmental Quality.

Discharge. The deposit of pollutants into the city wastewater system, whether deliberate or as an unintended result of any action or failure to act.

Discharge permit. A wastewater discharge permit or a mobile waste hauler permit.

Domestic waste. Wastewater derived from ordinary living processes, free from process wastewater and which will permit satisfactory disposal without special treatment into the city wastewater system.

EPA. The United States Environmental Protection Agency.

Immediate or Immediately. Immediate or immediately means as soon as reasonably possible but in no event longer than 24 hours.

Industrial user. Any person, including a mobile waste hauler, who discharges wastewater from a source other than a single or multiple dwelling unit directly connected to the city wastewater system.

Interference. A discharge which, alone or in conjunction with a discharge or discharges from other sources, either:

- (a) Inhibits or disrupts the city, its wastewater system treatment processes or operations, or its sludge processes, use or disposal; or
- (b) 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) or of the prevention of sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations); Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act or regulations promulgated by the city manager.

Mobile waste hauler. A person who, by contract or otherwise, collects wastewater, including domestic waste and septage waste, for transportation to and discharge into any portion of the city wastewater system. "Domestic waste" and "septage waste" as used herein have the meaning found in section 6.506.

Mobile waste hauler permit. A permit issued pursuant to section 6.551 of this code.

NPDES permit. National Pollution Discharge Elimination System permit issued pursuant to ORS 468.740 and the Act.

New significant industrial user. Any person discharging from any building, structure, facility or installation (source), the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- (a) The building, structure, facility or installation is constructed at a site at which no other source is located; or
- (b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

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

Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (b) or (c) of this paragraph but otherwise alters, replaces, or adds to existing process or production equipment. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

- (d) Begun, or caused to begin as part of a continuous on-site construction program:
1. Any placement, assembly, or installation of facilities or equipment; or
 2. 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
- (e) 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.

Pass through. A discharge which exits the city wastewater system 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 wastewater system NPDES permit (including an increase in the magnitude or duration of a violation).

Person. Any individual, partnership, joint-venture, firm, company, cooperative, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity. The masculine gender shall include the feminine and the singular shall include the plural.

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

Pollutant. Any element or compound discharged into the city wastewater system except water unless the water has been heated, cooled or irradiated.

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Pollution. The alteration of the chemical, physical, biological or radiological state of water.

Pollution management practices. Schedules of activities, requirements or prohibitions of practices, operating procedures, maintenance procedures, and other management procedures used to reduce the amount of pollutants entering the city wastewater system.

Pollution prevention. Source reduction and other practices that reduce or eliminate the creation of pollutants through:

- (a) Increased efficiency in the use of raw materials, energy, water, or other resources, or
- (b) Protection of natural resources by conservation.

Pretreatment. The reduction or elimination of pollutants in wastewater prior to discharge.

Process wastewater. Water which, during manufacturing or processing, comes into contact with or results from the production of or use of any raw material, intermediate product, finished product, byproduct or waste product.

Restricted substance. Pollutants listed in section 6.511 of this code, or as prescribed by the city manager pursuant to section 6.516 of this code.

Sample. Any portion of wastewater representing a discharge, which may be a grab sample, or a composite of several samples representing the sewer discharge over a period of time.

Septage waste. Domestic waste extracted from a sewage containment system.

SIC number. A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, through the effective date of this ordinance.

Significant industrial user. Any industrial user which:

- (a) Is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N or rules promulgated by the city manager, or
- (b) Discharges an average of at least 25,000 gallons per day of wastewater (excluding domestic waste, boiler blowdown, and noncontact cooling water) in any period of 12 consecutive calendar months, or
- (c) Discharges process wastewater, which on any day in any period of 12 consecutive calendar months constitutes at least five percent of the

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average daily dry weather hydraulic or organic capacity of the city wastewater system, or

- (d) Is determined by the city manager to have a reasonable potential for adversely affecting the city wastewater system's operation or for violating any pretreatment standards.

Slugload. Any discharge of a non-routine episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

Standards. The limitations and requirements established by federal, state and local laws and regulations for discharges to the city wastewater system.

Suspended solids. The total elements and compounds which float on the surface of, or are suspended in, wastewater and which are removable by laboratory filtration.

Toxic pollutant. Any pollutant or combination of pollutants identified pursuant to section 307(a) and section 502 of the Act or otherwise listed as toxic in regulations previously promulgated by the EPA, or as identified by the city manager.

Wastewater. Liquid or water-carried pollutants including any stormwater that may be present, whether treated or untreated, which is discharged, flows, or infiltrates into the city wastewater system.

Wastewater discharge permit. A permit issued pursuant to section 6.551 of this code.

(Section 6.506, formerly Section 6.405 added by Ordinance No. 19130, enacted April 13, 1983; and amended by Ordinance No. 19791, enacted July 8, 1991; amended by Ordinance No. 19913, enacted April 26, 1993, effective May 26, 1993; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993; and Ordinance No. 20075, enacted January 27, 1997, effective February 26, 1997.)

6.511 Industrial Pretreatment Program - General Discharge Prohibitions. No industrial user shall discharge any pollutant in a quantity which will harm the health of the city's employees working in and around the city wastewater system, interfere with the operation or performance of the city wastewater system, or contaminate the resulting sludge, or will pass through the system inadequately treated, into receiving waters, including but not limited to any of the following substances:

- (a) Any liquids, solids or gases which by reason of their nature or quantity are, or may be sufficient either alone or in combination with other pollutants to cause fire or explosion or be injurious in any other way to the city wastewater system or its operations, including, but not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers,

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alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides; wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified by the city manager. At no time shall two successive readings on an explosion hazard meter, at the point of discharge (or at any point in the city wastewater system) be more than five percent nor any single reading over ten percent of the lower explosive limit of the meter.

- (b)** Pollutants which result in the presence of toxic gases, vapors, or fumes within the city wastewater system in a quantity that may cause acute worker health and safety problems.
- (c)** Any trucked or hauled pollutants, except at discharge points designated by the city manager.
- (d)** Solid or viscous substances which either alone or in combination with other pollutants may cause obstruction to the flow in a sewer or other interference with the operation of the city wastewater system such as, but not limited to: grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains or hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
- (e)** Any wastewater having a pH less than 5.5 or greater than 12.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the city wastewater system.
- (f)** Any wastewater containing pollutants which, either alone or in combination with other pollutants, may injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, creates a toxic effect in the receiving waters of the city wastewater system or exceeds any limitation set forth in a National Categorical Pretreatment Standard or any other pretreatment standard.
- (g)** Any noxious or malodorous liquid, gas or solid which, either alone or in combination with other pollutants, is sufficient to create a public nuisance or hazard to life or is sufficient to prevent entry into the city wastewater system for maintenance or repair.
- (h)** Any pollutant which may cause the city wastewater system's effluent or any other product of the city wastewater system such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.
- (i)** Any pollutant which will cause the city to violate its NPDES permit.
- (j)** Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

- (k) Any wastewater having a temperature which will inhibit biological activity in the treatment plant or stimulate excessive biological activity in the city wastewater system, but in no case wastewater with a temperature at the point of discharge into the city wastewater system which exceeds 65 degrees C (150 degrees F) or with a temperature which exceeds 40 degrees C (104 degrees F) at the regional treatment works plant influent.
- (l) Any wastewater containing any radioactive wastes or isotopes of such half life or concentration as may exceed limits established by the city manager or applicable state or federal standards.
- (m) Any unpolluted water, including, but not limited to, non-contact cooling water, or stormwater.

(Section 6.511, formerly Section 6.410 added by Ordinance No. 19130, enacted April 13, 1983; amended by Ordinance No. 19406, enacted September 17, 1986; Ordinance No. 19791, enacted July 8, 1991; Ordinance No. 19913, enacted April 26, 1993, effective May 26, 1993; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; and amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993.)

6.516 Industrial Pretreatment Program - Pretreatment Standards; Restricted Substances. No industrial user shall discharge wastewater containing restricted substances into the city wastewater system, in excess of limitations specified by conditions of its discharge permit or published by the city manager. The city manager shall publish and revise from time to time rules which designate and establish limits for restricted substances. At all times these rules shall cover and be at least as strict as those for pollutants as defined in state or federal regulations. Discharge limits or rules in effect and incorporated into any discharge permit shall remain in effect for that permit until it expires, except as modified as provided in section 6.551 of this code.

(Section 6.516, formerly Section 6.415 added by Ordinance No. 19130, enacted April 13, 1983; amended by Ordinance No. 19791, enacted July 8, 1991; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; and amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993.)

6.521 Industrial Pretreatment Program - Excessive Discharge. No industrial user shall increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate pretreatment to achieve compliance with the standards contained in sections 6.501 to 6.596 of this code.

(Section 6.521, formerly Section 6.425 added by Ordinance No. 19130, enacted April 13, 1983; amended by Ordinance No. 19791, enacted July 8, 1991; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; and amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993.)

6.526 Industrial Pretreatment Program - Accidental Discharges. Industrial users shall provide protection from accidental discharge of prohibited or regulated materials or substances established in this section. Where

deemed necessary by the city, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the industrial user's cost and expense. An accidental spill prevention plan (ASPP) showing facilities and operating procedures to provide this protection shall be submitted to the city for review and approval before implementation. The city shall determine which industrial user is required to develop an ASPP and require that industrial user to submit the ASPP within 60 days after notification by the city. Each industrial user shall implement its ASPP as submitted after such ASPP has been reviewed and approved by the city. Review and approval of such plans and operating procedures by the city shall not relieve the industrial user from the responsibility to modify its facility as necessary to meet the requirements of sections 6.501 to 6.596 of this code.

(Section 6.526, formerly Section 6.427 added by Ordinance No. 19791, enacted July 8, 1991; renumbered by Ordinance 19939, enacted November 17, 1993, effective December 17, 1993; and amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993.)

6.531 Industrial Pretreatment Program - Notice of Discharges.

- (1) Telephone notice.** Any industrial user or employee thereof becoming aware of a discharge which:
 - (a) Could cause interference or pass through, including any slug load; or
 - (b) Violates sections 6.501 to 6.596 of this code, shall report such discharge immediately by telephone to the city manager. Prompt notification of such discharges will allow the city to take necessary precautions to minimize hazards and to prevent damage to the receiving waters, thereby avoiding or minimizing discharge violations and fines from state and federal regulatory agencies and the city. The notification shall include the location of the discharge, type, concentration and volume of pollutant discharged and corrective actions proposed and/or taken.
- (2) Written notice.** Within five days following such a discharge, the industrial user shall submit to the city manager a detailed written report describing the cause and location of the discharge, the type, concentration and volume of pollutant discharged, and any hazards which may be posed to life or property and the measures taken or to be taken to prevent similar future occurrences.
- (3) Advance notice.** An industrial user shall promptly notify the city manager in advance of any substantial change in the volume or character of pollutants in its discharge, including hazardous wastes for which the industrial user has provided initial notification under section 6.536 of this code.
- (4) Notice to employees.** Each industrial user subject to section 6.551 of this code shall permanently post a notice on its bulletin board or other prominent place advising employees whom to call in the event of a

discharge covered by subsection (1) of this section. Employers shall ensure that all employees who may cause or suffer such a discharge to occur or who are likely to detect such discharge are advised of the emergency notification procedure.

(Section 6.531, formerly Section 6.430 added by Ordinance No. 19130, enacted April 13, 1983; amended by Ordinance No. 19791, enacted July 8, 1991; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; and amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993.)

6.536 Industrial Pretreatment Program - Notice of Hazardous Waste Discharge.

- (1) Local notice and prior approval. Prior to the discharge of any substance referenced in subsection (2) of this section, the industrial user shall obtain prior written approval from the city manager for such discharge. The written request for prior approval shall include the name of the hazardous waste as set forth in 40 CFR Part 261, identification of the hazardous constituents contained in the waste, an estimate of the mass and concentration of such constituents, the volume of the discharge, and any other information the city manager may deem appropriate.
- (2) Federal notice requirements. Industrial users shall notify the city manager, the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the city wastewater system 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 industrial user discharges more than 100 kilograms of such waste per calendar month to the city wastewater system, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user:
 - (a) An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month; and
 - (b) An estimation of the mass constituents in the wastestream discharged during that calendar month; and
 - (c) An estimation of the mass constituents in the wastestream expected to be discharged during the following 12 months. Industrial users who commence discharging after December 31, 1991 shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notification of changed discharges must be submitted under section 6.430(3) of

this code. The notification requirement in this section does not apply to pollutants already reported under self-monitoring requirements of this code.

- (3) Exemption. Industrial users are exempt from the requirements of subsection (2) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.
- (4) New regulations. In the case of any new regulations under section 3001 of the Resource Conservation and Recover Act identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the city manager, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- (5) Certification. In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(Section 6.536, formerly Section 6.432 added by Ordinance No. 19791, enacted July 8, 1991; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; and amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993.)

6.541 Industrial Pretreatment Program - Agreements. Nothing contained in sections 6.501 to 6.521 of this code shall be construed to prohibit an agreement between the city and any person whereby a discharge which would otherwise be prohibited by sections 6.501 to 6.596 of this code may be admitted to the city wastewater system. Such an agreement may be made when, in the opinion of the city manager, special circumstances justify such agreement, provided that no interference or pass through results from the discharge and no additional costs are incurred by the city without recompense by the person. Categorical pretreatment standards shall not be waived by special agreement of the parties.

(Section 6.541, formerly Section 6.434 added by Ordinance No. 19791, enacted July 8, 1991; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; and amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993.)

6.546 Industrial Pretreatment Program - Fees.

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- (1) Purpose. It is the purpose of this section to reduce the city's cost of implementation of the pretreatment program through a system of equitable charges or fees to be paid by the industrial users of the city wastewater system who are subject to section 6.551(1)(a) of this code for certain services. The applicable charges or fees shall be set forth in a schedule of fees established as provided in section 2.020 of this code.
- (2) Fees. When adopting fees as provided in subsection (1) of this section the city manager may adopt fees to reduce the city's cost of providing the following services:
 - (a) Setting up and operating the pretreatment program;
 - (b) Sampling, monitoring, inspections and surveillance procedures;
 - (c) Reviewing accidental discharge procedures and control;
 - (d) Reviewing and acting upon permit applications; and
 - (e) Other services as the city manager may deem necessary to carry out the requirements contained in sections 6.501 to 6.596 of this code.

(Section 6.546, formerly Section 6.435, added by Ordinance No. 19130, enacted April 13, 1983; amended by Ordinance No. 19791, enacted July 8, 1991; amended by Ordinance No. 19913, enacted April 26, 1993, effective May 26, 1993; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; and amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993.)

6.551 Industrial Pretreatment Program - Administration.

- (1) General.
 - (a) Wastewater discharge survey. The city manager or designee may require an industrial user to provide information pertaining to the nature and quantity of the industrial user's wastewater discharge. The city manager may, from time to time, require an industrial user to complete a wastewater discharge survey and returned it to the city.
 - (b) Monitoring facilities. When required by the city manager, the industrial user shall install and maintain at its expense a suitable control accesshole to facilitate observation, sampling and measurement of wastewater being discharged. Such accesshole shall be located, if feasible, where it is accessible from a public road or street. It shall be constructed in accordance with plans and at a location approved by the city manager and shall be arranged so that flow measuring and sampling equipment and a shutoff gate or a screen may be conveniently installed by the city.
 - (c) Inspection and sampling. The city may inspect the facilities of any industrial user as often as deemed necessary (significant industrial users should expect to be inspected no less often than at least one to four times annually) to ascertain whether the provisions of sections 6.501 to 6.596 of this code are being complied with. The owner, operator or agent in charge of the

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- premises shall allow authorized representatives of the city, state and EPA access at all reasonable times to all parts of the premises where wastewater related facilities are located or in which records required by this code are kept for the purpose of the performance of any of their duties, including but not limited to, inspection, observation, photographing, sampling, and/or records copying and examination. The city, state and EPA shall have the right to set up on the industrial user's property such devices as may be necessary or proper to conduct sampling, observation, inspection, compliance monitoring and/or metering operations. The industrial user shall make arrangements with its employees so that upon presentation of their credentials, representatives from the city, state or EPA will be permitted to enter, without delay, for the purpose of performing their responsibilities.
- (d) Pretreatment facilities. An industrial user may be required to install pretreatment facilities or make plant or process modifications or implement pollution management practices as deemed necessary by the city manager to meet the requirements of sections 6.501 to 6.596 of this code. Whenever such facilities or modifications are required, they shall be constructed, installed, operated and maintained at the expense of the industrial user and in a manner and within the time prescribed by the city manager to enable the city to comply with all state and federal regulations or to protect the city wastewater system or treatment process. The industrial user shall maintain records indicating routine maintenance check dates, cleaning and waste removal dates and means of disposal of accumulated wastes. Such records shall be retained for a minimum of three years and shall be subject to review in accordance with subsection (1)(a) of this section. Approval of proposed facilities or modifications by the city manager will not in any way guarantee that these facilities or modifications will function in the required manner or attain the required results, nor shall it relieve an industrial user of the responsibility of enlarging or otherwise modifying or replacing such facilities to accomplish the intended purpose and to meet the applicable standards, limitations and conditions of sections 6.501 to 6.596 of this code and, in the case of a permit holder, the wastewater discharge permit.
- (e) Confidential information. Information and data obtained by the city from reports, questionnaires, permit applications, permits and monitoring programs shall be available to the public and other governmental agencies without restriction unless the industrial user requests in writing that it be confidential and demonstrates to the satisfaction of the city manager that such records are exempt from disclosure under the Oregon Public Records Law, ORS 192.410, et seq. Notwithstanding anything herein to the contrary,

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all such data shall be available at least to the extent necessary, to permit the city manager to ensure compliance with sections 6.501 to 6.596 of this code as well as the requirements of 40 CFR section 2.302. When confidentiality is requested and the right thereto is established by the industrial user, the confidential information shall not be made available for inspection by the public but may be made available upon written request to governmental agencies for uses related to sections 6.501 to 6.596 of this code, the NPDES permit, or pretreatment programs. However, all portions of a report shall be available for use by the city, state or any state agency or federal agency in judicial or enforcement proceedings involving the person furnishing the report.

(2) Wastewater discharge permits.

- (a) General. Every significant industrial user shall secure a wastewater discharge permit from the city. Any discharge by a significant industrial user without a wastewater discharge permit is a violation of this code except as provided in subparagraph (b) of this subsection.
- (b) Application. An existing industrial user which will become a significant industrial user upon establishing a new point of discharge, or making a substantial change in the volume or character of its discharge or process, shall apply for a wastewater discharge permit at least 90 days prior to establishing a new discharge point or making such change in discharge or process. Any such action by the industrial user without a permit is a violation of sections 6.501 to 6.596 of this code. Any other existing industrial users shall apply for a wastewater discharge permit within seven days of becoming a significant industrial user and may continue to discharge until the earlier of, the denial of the application or the passage of 90 days without permit issuance. Thereafter, any further discharge shall be a violation of sections 6.501 to 6.596 of this code. New significant industrial users shall apply for a wastewater discharge permit at least 90 days prior to the earlier of connecting to the city wastewater system or discharging. Any discharge by a new significant industrial user without a permit is a violation of sections 6.501 to 6.596 of this code. An existing significant user proposing to establish a new point of discharge or make a substantial change in the volume or character of its discharge or process, shall apply for an amended permit and may discharge only in conformity with its existing permit until the permit is modified. Applications shall be made to the city manager in writing on forms provided by the city and shall include the following information:

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1. Name, address, telephone number and authorized representative of the applicant and service address together with the name of the operator and owners;
2. SIC number;
3. A list of environmental control permits held by or for the applicant;
4. A list of wastewater pollutants and their characteristics actually or potentially discharged at the applicable plant site including measured or estimated daily average and daily maximum concentrations of these pollutants;
5. A description of spill prevention measures or plans which are currently in place in the plant;
6. Water use and wastewater flow rates, including maximum daily, average daily, average monthly and seasonal variations, if any;
7. A detailed site, floor, or plumbing plan showing the size and location of all sewers, sewer connections and appurtenances, or any other facilities designed to help the applicant in meeting sections 6.501 to 6.596 of this chapter;
8. A description of activities, facilities and plant processes on the premises including a general description of types and quantities of all materials which are or could be discharged into the city wastewater system;
9. A statement regarding whether or not compliance is being achieved with sections 6.501 to 6.596 of this code on a consistent basis and if not, whether additional operation and maintenance activities and/or additional pretreatment is required for the applicant to comply with sections 6.501 to 6.596 of this code;
10. Where additional pretreatment and/or operation and maintenance activities will be required to comply with sections 6.501 to 6.596 of this code, the applicant shall provide a compliance schedule consisting of a declaration of the shortest schedule by which the applicant 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 applicant 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

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acts necessary to achieve compliance with sections 6.501 to 6.596 of this code.

- b. Under no circumstances shall a time increment for any single step directed toward compliance which exceeds nine months be permitted.
 - c. Not later than 14 days following each milestone date in the schedule and the final date for compliance, the applicant shall submit a progress report to the city, including at least, a statement on whether or not the applicant 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 applicant to return the construction to the approved schedule. In no event shall more than nine months elapse between such progress reports to the city;
- 11. A list of each product produced by type, amount, process or processes, and rate of production;
 - 12. A list of the type and amount of raw materials utilized including chemicals used in process which may be discharged to the city wastewater system (average and maximum per day);
 - 13. Any pertinent special agreements between the applicant and the city concerning treatment of discharges, special user charges or rates, or any other information deemed necessary by the city manager;
 - 14. The application shall be signed by an authorized representative of the industrial user;
- The city manager will evaluate the data furnished by the applicant and may determine that additional information or sampling of wastewater characteristics is necessary. If such a determination is made, the applicant, unless the time period is extended, will be given 30 days to provide the required information or sampling. If it is not provided within the designated time period, the application shall be denied. After determining that the submitted application contains all of the information required by this subsection, the city manager will consider the submission, any additional evidence that may have been requested, and any other available information relevant to the application. If the city manager determines that the proposed discharge meets the requirements of sections 6.501 to 6.596 of this code, the city manager will, within 30 days after determining that the application is complete, issue a wastewater discharge permit subject to appropriate conditions. Any application

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determined by the city manager to be complete shall constitute compliance with baseline monitoring report requirements under 40 CFR 403.12(b).

- (c) Modification of permit. Conditions included in a wastewater discharge permit shall remain in effect for that permit until it expires, except that they may be revised by the city manager whenever the city manager deems a revision is necessary in order to effectively implement the pretreatment program, as required by city, state or federal standards or in order to effectuate the objectives of sections 6.501 to 6.596 of this code, and the city's policy to cooperate with the state and federal government or to meet any emergency. The permit holder shall be informed of any proposed changes in its permit at least 30 days prior to the effective date of change except in the event of an emergency.
- (d) Duration. Permits shall be issued for a specified time period, not to exceed three years. The permit holder shall apply for permit reissuance a minimum of 90 days prior to the expiration of its existing permit if it desires to continue to discharge. An expired permit will continue to be in effect until the city takes final action on the renewal application to issue or deny the permit ("final action") if:
 - 1. The permit holder has submitted a complete permit application at least 90 days prior to the expiration of its permit; and
 - 2. The failure to take final action is not due to any act or failure to act on the part of the permit holder.
- (e) Conditions. Wastewater discharge permits shall be expressly subject to all provisions of sections 6.501 to 6.596 of this code. Where applicable, permits shall contain the following conditions:
 - 1. Payment of applicable fees;
 - 2. Limits on the average and maximum discharge of restricted substances, including mass limits;
 - 3. Limits on average and maximum rate and time of discharge or requirements for flow regulators and equalization;
 - 4. Requirements for installing and maintaining pretreatment, inspection or monitoring sampling facilities;
 - 5. Specifications for monitoring and sampling programs which may include monitoring and sampling locations, frequency of monitoring, sampling, number, types and standards for tests and reporting schedules;
 - 6. Compliance schedules;
 - 7. Requirements for submitting technical reports or discharge reports;
 - 8. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city manager, and affording the city manager access thereto;

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9. Requirements for notifying the city of any new discharge of a restricted substance or any substantial change in the volume or character of the wastewater or any restricted substances being discharged into the city wastewater system;
 10. Requirements for notifying the city within two business days after a permit holder has a reasonable basis to know that the production level will significantly change within the next calendar month, and that without such notification, a permit holder must meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate;
 11. Requirements for immediately notifying the city of slug load discharges;
 12. Requirements that the permit holder notify the city of any disposal of wastewater in excess of 500 gallons to any person in any period of 12 consecutive calendar months;
 13. Authorized points of discharge and regulated processes;
 14. Requirement for immediately notifying the city manager where self-monitoring results indicate noncompliance;
 15. Requirement to report a bypass or upset of a pretreatment facility;
 16. Requirement for the significant industrial user who reports noncompliance to repeat the sampling and analysis and submit analysis to the city manager within 30 days after becoming aware of the violation;
 17. Requirement for any significant industrial user whose pretreatment system contains a back-up system to notify the city before the primary system is taken off-line, and the back-up system is put into use;
 18. Statement of applicable civil and criminal penalties for violation of pretreatment standards; and
 19. Other conditions as deemed appropriate by the city manager to achieve compliance with sections 6.501 to 6.596 of this code.
- (f) Transfer. A wastewater discharge permit shall be issued to a specific significant industrial user for a specific operation. A wastewater discharge permit shall not be assigned, transferred or sold without the approval of the city manager. Any successor significant industrial user shall agree to comply with the terms and conditions of the existing permit as a condition precedent to the approval by the city manager of a transfer, sale or assignment of the permit.
- (g) Analysis and reporting requirements. Permit holders will be required to submit information, certifications, compliance schedules and samples of discharges or perform such tests and report such test results to the city manager as follows:

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1. When required by the terms and provisions of 40 CFR Sec. 403.12 or 403.6(c)(7);
2. When requested by state or local public agencies; or
3. When deemed necessary by the city manager for the proper treatment, analysis or control of discharges.

All such tests and reports shall be at the cost of the permit holder. The city shall have the right to implement and enforce the provisions of 40 CFR Sec. 403.12 and 403.6(c)(7) by order of the city manager. When deemed necessary by the city manager, a permit holder may be required to obtain, install, operate and maintain an automatic sampler, analyzer or flow measuring device to monitor its discharges in the manner directed by the city.

All sampling and analysis shall be done in a manner and by a laboratory previously approved by the city manager. The city manager shall require all analysis related to any permit to be performed in accordance with the procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR Sec. 136 or other applicable analytical procedures approved by the EPA.

To the degree practicable, the city manager will provide each permit holder or applicant with information on applicable local, state and federal wastewater analysis and reporting requirements, provided, however, that any failure to do so shall not excuse the permit holder from compliance with said requirements.

(3) Mobile waste hauler permits.

- (a) Permit required. Any person proposing to be a mobile waste hauler and any person the city manager has determined is likely to be a mobile waste hauler shall secure a mobile waste hauler discharge permit from the city. Any discharge by a mobile waste hauler without a permit is a violation of sections 6.501 to 6.596 of this code except as provided in subparagraph (b) of this subsection
- (b) Application. Any existing mobile waste hauler shall apply for a mobile waste hauler discharge permit within 30 days after becoming subject to the requirements of subparagraph (a) of this subsection. Any new mobile waste hauler subject to the requirements of subparagraph (a) of this subsection shall apply at least 30 days prior to its initial discharge. Applications shall be made to the city manager in writing on forms provided by the city and shall include the following information:
 1. Name, address, telephone number and authorized representative of the applicant;
 2. SIC number and other state or federal license numbers;

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3. A list of environmental control permits held by or for the applicant;
4. A description of spill prevention measures or plans which are currently in place for use during storage or discharge of wastewater;
5. A description of activities and methods of collection, transportation, storage and discharge of wastewater, a description of transportation and storage facilities, and a general description of types and quantities of all materials which are or could be discharged; and
6. Proof of adequate general liability and property damage insurance.

The city manager shall evaluate the data furnished by the applicant and may determine that additional information or sampling of wastewater characteristics is necessary. If such a determination is made, the applicant, unless the time period is extended, will be given 30 days to provide the required information or sampling. If it is not provided within the designated time period, the application shall be denied. After determining that the submitted application contains all the information required by this subsection, the city manager shall consider the submission, any additional evidence that may have been requested, and any other available information relevant to the application. If the city manager determines that the proposed discharge meets the requirements of sections 6.501 to 6.596 of this code, the city manager shall, within 30 days after determining that the application is complete, issue a mobile waste hauler discharge permit subject to appropriate conditions.

- (c) Modification of permit. Conditions included in a mobile waste hauler discharge permit shall remain in effect for that permit until it expires, except that they may be revised by the city manager whenever the city manager deems a revision is necessary in order to effectively implement the pretreatment program, as required by city, state or federal standards in order to effectuate the objectives of sections 6.501 to 6.596 of this code, and the policy of the city to cooperate with the state and federal government or to meet any emergency. The permit holder shall be informed of any proposed change in its permit at least 30 days prior to the effective date of change except in the event of an emergency.
- (d) Duration. Permits shall be issued for a specified time period, not to exceed three years. The permit holder shall apply for permit reissuance a minimum of 90 days prior to the expiration of its existing permit if it desires to continue to discharge. An expired permit will continue to be in effect until the city takes final action on the renewal application to issue or deny the permit ("final action") if:

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1. The permit holder has submitted a complete permit application at least 90 days prior to the expiration of its permit; and
 2. The failure to take final action is not due to any act or failure to act on the part of the permit holder.
- (e) Conditions. Mobile waste hauler discharge permits shall be expressly subject to all provisions of sections 6.501 to 6.596 of this code. Mobile waste hauler permits shall contain the following conditions:
1. Payment of applicable fees;
 2. Limits on the average and maximum discharge of restricted substances;
 3. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
 4. Compliance schedules;
 5. Requirements for submission of technical reports or discharge reports;
 6. Requirements for notification of the city of any new introduction of restricted substances or any substantial change in the volume or character of the wastewater or any restricted substances being discharged;
 7. Requirements that the permit holder notify the city of any disposal of wastewater in excess of 500 gallons to any other person in any period of 12 consecutive calendar months;
 8. Requirements for insurance coverage for all activities subject to the provisions of sections 6.501 to 6.596 of this code;
 9. Requirements that the permit holder retain a copy of a valid mobile waste hauler discharge permit in each vehicle used for transportation of wastewater, and present that permit to any employee of the city authorized to inspect the mobile waste hauler discharge permit;
 10. Requirements that the permit holder present a manifest of origin of all wastewater proposed for discharge;
 11. Requirements that the permit holder discharge only at the designated discharge point and at designated times;
 12. Requirements that the permit holder remove or otherwise clean up all spilled material or waste after discharge and that the permit holder agree to pay any public agency which provides assistance in such clean up or which performs such clean up after a failure by the permit holder to comply, an amount representing twice the amount of the actual expenditures of the public agency for labor and materials necessary to clean any spilled waste;
 13. Requirements that the permit holder apply in writing on approved forms for permission to discharge any wastewater containing any restricted substance or wastewater

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containing any substances other than domestic or septage waste and provide the operator of the treatment facility at least 24 hours' notice of proposed time of delivery of any such approved waste; and

14. Other conditions as deemed appropriate by the city manager to achieve compliance with sections 6.501 to 6.596 of this code.
- (f) Transfer. A mobile waste hauler discharge permit shall be issued to a specific mobile waste hauler for a specific operation. A mobile waste hauler discharge permit shall not be assigned, transferred or sold without the approval of the city manager. Any successor mobile waste hauler shall agree to comply with the terms and conditions of the existing permit as a condition precedent to the approval by the city manager of a transfer, sale or assignment of the permit.
- (g) Analysis and reporting requirements. Permit holders shall be required to submit information, certifications, compliance schedules and samples of discharges or perform such tests and report such test results to the city manager as follows:
 1. When requested by state or local public agencies; or
 2. When deemed necessary by the city manager for the proper treatment, analysis or control of discharges.

All such tests and reports shall be at the cost of the permit holder. To the degree practicable, the city manager shall provide each permit holder or applicant with information on applicable local, state and federal wastewater analysis and reporting requirements, provided, however, that any failure to do so shall not excuse the permit holder from compliance with said requirements.

(Section 6.551, formerly Section 6.440, added by Ordinance No. 19130, enacted April 13, 1983; amended by Ordinance No. 19791, enacted July 8, 1991; renumbered by Ordinance No. 19939, enacted November 17, effective December 17, 1993; amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993; and Ordinance No. 20075, enacted January 27, 1997, effective February 26, 1997)

6.556 Industrial Pretreatment Program - Public Nuisance.

- (1) Unlawful discharges. Any discharge in violation of sections 6.501 to 6.596 of this code, the conditions of a discharge permit, or any other violation of sections 6.501 to 6.596 of this code is hereby declared to be a public nuisance. Such nuisance may be abated or enjoined and damages assessed therefor in accordance with other provisions in this code or in any other manner provided by law.
- (2) Activities causing unlawful discharge. Any activity which could result in or cause discharges in violation of sections 6.501 to 6.596 of this code on at least one day a month for any six months during the course of 12 consecutive calendar months is hereby declared to be a public nuisance. Such nuisance may be abated or enjoined and damages

assessed therefor in accordance with other provisions in this code or in any other manner provided by law.

- (3) Additional personnel or monitoring devices. The city manager may order the employment of one or more personnel or the installation of secured monitoring devices to assure compliance with any abatement order. Where the city manager deems such action necessary, the city manager may select the persons to be employed as monitors. The cost for compliance with such order shall be apportioned according to the laws regarding nuisance abatement.

(Section 6.556, formerly 6.445 added by Ordinance No. 19130, enacted April 13, 1983; amended by Ordinance No. 19791, enacted July 8, 1991; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; and amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993.)

6.561 Industrial Pretreatment Program - Cease and Desist Order.

- (1) In the event of any actual or threatened discharge in violation of sections 6.501 to 6.596 of this code or the conditions of a discharge permit, which discharge presents an imminent or existing danger to the health or welfare of persons, property or the environment or which has caused or will cause interference, pass through or contamination of the resulting sludge, the city manager may issue an order to cease and desist and direct that the person responsible for such violation:
- (a) Comply forthwith;
 - (b) Comply in accordance with the time schedule set forth by the city manager; or
 - (c) Take appropriate remedial or preventative action.
- (2) If the person or permit holder in violation fails to comply with the order, the city shall take such steps as are deemed necessary or proper including immediate severance of the sewer connection. The city shall reinstate the wastewater treatment service upon proof of the elimination of the actual or threatened violation. The filing of an appeal pursuant to section 6.591 of this code shall not stay enforcement.

(Section 6.561, formerly Section 6.450 added by Ordinance No. 19130, enacted April 13, 1983; amended by Ordinance No. 19791, enacted July 8, 1991; amended by Ordinance No. 19913, enacted April 26, 1993, effective May 26, 1993; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; and amended by Ordinance 19940, enacted November 17, 1993, effective December 17, 1993.)

- 6.566 Industrial Pretreatment Program - Submission of Time Schedule.** If the city manager finds that a discharge has taken or may take place in violation of sections 6.501 to 6.596 of this code or the conditions of a discharge permit, the city manager may require the person or permit holder responsible therefor to submit for approval, within such time and with such modifications as the city manager deems necessary, a detailed time schedule of specific actions which the person or permit holder shall take in order to prevent or correct the violation.

(Section 6.566, formerly Section 6.455 added by Ordinance No. 19130, enacted April 13, 1983; amended by Ordinance No. 19791, enacted July 8, 1991; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; and amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993.)

6.571 Industrial Pretreatment Program - Termination and Revocation of Discharge Permit.

- (1)** Any industrial user who violates any of the provisions of sections 6.501 to 6.596 of this code or, where applicable, the conditions of its discharge permit, may have its discharge permit revoked and/or sewer connection severed by order of the city manager.
- (2)** The order shall be signed by the city manager and shall specify the nature and source of the violation. The order shall be delivered or sent by regular mail to the address of the industrial user. The order may specify the corrective actions to be taken and shall allow reasonable time for satisfactory correction. If the industrial user does not correct the violation within the time specified, or such additional time as may be allowed in writing by the city manager, then the discharge permit shall be revoked and/or the sewer connection severed as provided in the order. Correction of the violation shall not preclude assessment of monetary penalties.
- (3)** The filing of an appeal pursuant to section 6.591 of this code shall stay enforcement under this section pending final administrative action on the appeal. This provision supplements and does not restrict other provisions of this code, laws or regulations authorizing termination of service for delinquency in payment of fees or charges.
- (4)** Any industrial user whose discharge permit is revoked pursuant to this section shall be prohibited from applying for a new discharge permit for a period of two years from the date of final decision. The prohibition may be waived if the city manager determines that the issuance of a new discharge permit is necessary to avert an imminent or existing danger to the health or welfare of persons, property or the environment.

(Section 6.571, formerly Section 6.460 added by Ordinance No. 19130, enacted April 13, 1983; amended by Ordinance No. 19791, enacted July 8, 1991; Ordinance No. 19913, enacted April 26, 1993, effective May 26, 1993; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993; and Ordinance No. 20075, enacted January 27, 1997, effective February 26, 1997.)

6.576 Industrial Pretreatment Program - Public Notification of Significant Noncompliance. The city shall publish in a daily newspaper with the largest daily circulation in the metropolitan area, not less than annually, a list of those industrial users which during the previous 12 months were in significant noncompliance with sections 6.501 to 6.596 of this code or their discharge permits. This notification will summarize enforcement action by the city during the same 12 months. For purposes of this section, an

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industrial user is in significant noncompliance if its violation meets one or more of the following criteria:

- (a) Chronic violations of wastewater discharge limits, defined herein as those in which 66 percent or more of all of the measurements taken during a six month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (b) Technical review criteria (TRC) violations, defined herein as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit 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 effluent limit (daily maximum or longer-term average) that the city manager 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 under section 6.561 of this code to halt or prevent such a discharge;
- (e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone for starting construction, completing construction, or attaining final compliance;
- (f) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (g) Failure to accurately report noncompliance;
- (h) Any other violation or group of violations which the city manager determines will adversely affect the operation or implementation of the local pretreatment program.

(Section 6.576, formerly 6.462 added by Ordinance No. 19791, enacted July 8, 1991; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; and amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993.)

6.581 Industrial Pretreatment Program - Implementation. Nothing in sections 6.501 to 6.596 shall prevent the city manager from seeking judicial or governmental agency assistance to implement the purposes and provisions thereof.

(Section 6.581, formerly 6.463 added by Ordinance No. 19791, enacted July 8, 1991; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; and Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993.)

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Industrial Pretreatment Program - Enforcement Orders.

- (1) Generally. In addition to any penalty or fine which may otherwise be charged, or other enforcement action which may otherwise be taken against any industrial user found to be in violation of any provision of this code, the city manager may:
- (a) Issue a written notice of noncompliance;
 - (b) Issue a written notice of violation;
 - (c) Impose an administrative civil penalty under section 2.018 of this code; and
 - (d) Issue a written compliance order. The person to whom the compliance order is issued shall comply with the order. Any violation of the compliance order shall be subject to the same enforcement actions as any other violation of this code.

The notices or orders authorized hereunder shall advise the industrial user of the right to appeal the penalty or order in accordance with the provisions of subsection (6) of this section.

- (2) Basis of penalty. A noncompliance penalty may be levied by the city manager when either a constituent limitation has been exceeded or a compliance requirement has not been met. The city manager may impose a penalty on any such industrial user for each day the industrial user has allowed a discharge in violation of this code, rules adopted hereunder, notice of violation, or administrative compliance order, or in excess of permit limitations or otherwise has failed to observe the requirements of its discharge permit. The city manager may adopt a schedule of graduated penalties based on the nature, length and frequency of noncompliance.

- (3) Constituent limitation. A constituent limitation is exceeded when:
- (a) The concentration of a restricted substance in any sample or in a series of samples taken during the appropriate time period therefor, has exceeded limitations published by the city manager, or any other limitation imposed by a discharge permit; or
 - (b) The pH of any sample is outside the permitted pH range, or
 - (c) A continuous recording pH instrument indicates that the pH of the industrial discharge:
 - 1. Is lower than 5.5 or greater than 12.0 for more than 30 minutes in any calendar day, or
 - 2. Is lower than 5.0 or greater than 12.5 at any time during a calendar day, or
 - (d) The volume restrictions of a discharge permit are exceeded.

- (4) Compliance requirement. A compliance requirement has not been met when any requirement established by the discharge permit or by any provision of sections 6.501 to 6.596 of this code, or by regulations published by the city manager or by an order issued by the city manager other than a constituent limitation, has not been met, including a failure to submit any required reports.

- (5) Collection procedure. Collection of the penalties determined by the city manager shall be in the manner provided in this code for the collection of sewer user charges, in accordance with any other provisions of this code, or in any other manner provided by law.
- (6) Appeal. If the industrial user objects to any civil penalty or compliance order issued pursuant to subsection (1) of this section, the industrial user may appeal therefrom in accordance with the provisions of section 2.021 of this code.
- (7) Penalties cumulative. The penalties provided in this section shall be in addition to any other remedy that the city may have pursuant to this code or in any other manner provided by law.

(Section 6.586, formerly 6.464 added by Ordinance No. 19791, enacted July 8,, 1991; amended by Ordinance No. 19913, enacted April 26, 1993, effective May 26, 1993; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993; and Ordinance No. 20075, enacted January 27, 1997, effective February 26, 1997.)

6.591 Industrial Pretreatment Program - Reconsideration and Appeal.

- (1) Reconsideration by city manager. Any person aggrieved by any decision or action of the city manager, other than action under section 6.586 of this code, may file a written request with the city manager for reconsideration thereof within ten days of receipt of notification of such decision or action. The request for reconsideration shall be on a form provided by the city manager and shall set forth in reasonable detail the decision or action objected to and the facts and arguments supporting the appellant's request for reconsideration. The city manager may establish such procedures as may be deemed necessary or proper to conduct the reconsideration process. The filing of a request for reconsideration shall be a condition precedent to the right to appeal to the Metropolitan Wastewater Management Commission (MWMC) pursuant to subsection (2) of this section.
- (2) Appeal to Metropolitan Wastewater Management Commission. Any person aggrieved by the final determination of the city manager, other than action under section 6.586 of this code, may appeal such determination to the MWMC. Written notification of such appeal shall be filed with the MWMC and city manager within ten days after receipt of the final determination of the city manager. A fee established as provided in section 2.020 of this code shall accompany the notice of appeal filed with the city. The notice of appeal shall be on a form provided by MWMC and shall set forth in reasonable detail the decision or action appealed from and the facts and arguments supporting the appellant's request for reversal or modification of the city manager's determination. The MWMC shall conduct a hearing on the appeal according to procedures to be established by the MWMC pursuant to paragraph 12 of the Intergovernmental Agreement. The MWMC shall submit a copy of its findings and recommendations regarding the

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appeal to the city council within ten days after the hearing. The city council may hold a hearing on the recommendations and, in any event, shall take action on the recommendations within 20 days after their filing.

(Section 6.591, formerly 6.465 added by Ordinance No. 19130, enacted April 13, 1983; amended by Ordinance No. 19791, enacted July 8, 1991; amended by Ordinance No. 19913, enacted April 26, 1993, effective May 26, 1993; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; and amended by Ordinance No. 19940, enacted November 17, 1993, effective December 17, 1993.)

6.596 Industrial Pretreatment Program - Damage to Facilities/Correction of Violations. Any person who violates sections 6.501 to 6.596 of this code or a condition of a discharge permit, as a result of which the city performs or causes to be performed preventive or corrective work or which results in damage to the city wastewater system shall be liable to the city for such damage and the cost of such preventive or corrective work, additional treatment and for any penalties, including withholding of any grant money, levied against the city for violation of state or federal permits resulting from said violation. The city may collect such charges in the manner provided in this code for the collection of sewer service charges, in accordance with any other provisions of this code, or in any other manner provided by law.

(Section 6.596, formerly Section 6.470 added by Ordinance No. 19130, enacted April 13, 1983; amended by Ordinance No. 19791, enacted July 8, 1991; renumbered by Ordinance No. 19939, enacted November 17, 1993, effective December 17, 1993; and amended by Ordinance No. 19940, enacted November 17, 1994, effective December 17, 1994.)

6.995 Administrative Civil Penalty.

- (1)** In addition to, and not in lieu of any other enforcement mechanism authorized by this code, upon a determination by the city manager or his/her designee that a person has violated a provision of this chapter, the city manager or designee may impose upon the violator and/or any other responsible person an administrative civil penalty as provided by section 2.018 of this code. For purposes of this subsection, responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, the owner as well.
- (2)** In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to subsection (1) of this section shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or licenses.

(Section 6.995 added by Ordinance No. 19719, enacted October 8, 1990 with an effective date of October 17, 1990, set by Ordinance No. 19722.)