

ARTICLE 3

APPENDIX "A"

WASTEWATER DISCHARGE REGULATIONS OF THE CITY OF HAYWARD

Chapter 1

GENERAL PROVISIONS

1.01 Purpose and Policy. These Wastewater Discharge Regulations impose requirements for discharges into the wastewater collection and treatment systems and enable the City of Hayward to comply with the administrative provisions of the Federal Clean Water Act, National Pollutant Discharge Elimination System permit conditions set by the Regional Water Quality Control Board including applicable effluent limitations, national standards of performance, toxic and pretreatment effluent standards, and any other discharge criteria which are required or authorized by state or federal law, and to derive the maximum public benefits by regulating the quality and quantity of wastewater discharged into the East Bay Dischargers Authority system. These regulations provide a means for determining wastewater volumes, the setting of user charges and fees for the equitable distribution of costs to all users, and issuance of permits to certain users. Revenues derived from the application of these regulations shall be used to defray the City's costs of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient funds for capital outlay, bond service costs, capital improvements, and depreciation.

1.02 Definitions. For the purpose of this article, certain words and phrases are defined and shall be construed as set out in this section. Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application. Terms herein shall be consistent with words and definitions in the Code of Federal Regulations Title 40 (40 CFR), Parts 136 and 403, the Porter-Cologne Water Quality Act, and the Federal Water Pollution Control Act as amended in 1972. Words, phrases or terms not specifically defined herein, and having a technical or specialized meaning shall be defined as set forth in 40 CFR Parts 136 and 403.

- (a) Amalgam. An alloy containing mercury, tin, silver, or copper that is used in dentistry to restore teeth.
- (b) Authorized or Duly Authorized Representative of the User.
 - (1) If the User is a corporation:
 - (i) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;
or

- (ii) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 - (3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (4) The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City. If an authorization of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraphs 1 through 3 of this section shall be submitted to the City prior to or together with any reports to be signed by an authorized representative.
- (c) Beneficial Uses. Uses of the waters of the state that may be protected against quality degradation include, but are not necessarily limited to, domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation and the preservation and enhancement of fish, wildlife and other aquatic organisms, resources or reserves, and other uses, both tangible or intangible, as specified by federal or state law.
 - (d) Best Management Practices or BMPs. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Chapter 2. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical pretreatment standards and effluent limits.

- (e) Building Sewer. A sewer conveying wastewater from the premises of a user to the City sewer.
- (f) Bypass. The intentional diversion of waste streams from any portion of a user's treatment facility.
- (g) Carbonaceous Biochemical Oxygen Demand or CBOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter in the presence of a nitrification inhibitor under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).
- (h) Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- (i) Categorical Industrial User. An Industrial User subject to a categorical pretreatment standard or categorical standard.
- (j) City. The City of Hayward.
- (k) City Sewer. A sewer owned and operated by the City of Hayward and tributary to the treatment facility operated by the City.
- (l) Compatible Pollutant. Biochemical oxygen demand (BOD), suspended solids (SS), pH and fecal coliform bacteria, plus additional pollutants identified in the City's National Pollutant Discharge Elimination System (NPDES) permit if the publicly owned treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. As required by the NPDES permit, the City analyzes carbonaceous biochemical oxygen demand (CBOD), a component of total BOD.
- (m) Composite Sample. A sample which is collected manually or automatically, and discretely or continuously, based on time or flow intervals.
- (n) Contamination. An impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. Contamination shall include any equivalent effect resulting from the disposal of wastewater, whether or not waters of the state are affected.
- (o) Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

- (p) Direct Discharge. The discharge of treated or untreated wastewater directly to the Waters of the State of California.
- (q) Domestic Sewage. Liquid and waterborne wastes derived from the ordinary living processes, free from industrial wastes, and of such character as to permit satisfactory disposal, without special treatment, into the City's sewerage system.
- (r) East Bay Dischargers Authority. The joint powers of authority comprised of the City of Hayward, the City of San Leandro, the Oro Loma Sanitary District, the Castro Valley Sanitary District, and the Union Sanitary District.
- (s) EPA. The United States Environmental Protection Agency or, where appropriate, a duly authorized official of said agency.
- (t) Existing Source. Any source of discharge that is not a "New Source."
- (u) Federal Act, Clean Water Act, or Act. The Federal Water Pollution Control Act, PL 92-500, and any amendments thereto; as well as any guidelines, limitations, and standards promulgated by the Environmental Protection Agency (EPA) pursuant to the Act. Text of the original law and subsequent amendments are documented in 33 U.S. Code 1251.
- (v) Grab Sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- (w) Holding Tank Waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.
- (x) Incompatible Pollutant. Any pollutant which is not a compatible pollutant as defined in this section.
- (y) Indirect Discharge or Discharge. The discharge or introduction of pollutants from any source regulated under Section 307(b) or (c) of the Act into the POTW.
- (z) Industrial User. All establishments engaged in producing, manufacturing, or processing operations, which result in the production and/or discharge into City sewers of industrial wastes; and all other establishments engaged in any activity resulting in the production and discharge to City sewers of industrial wastes.
- (aa) Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- (bb) Interference. A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
 - (2) therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage 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.
- (cc) Local Limit. Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).
- (dd) Manager. The City Manager or designated staff such as the Public Works Director and Water Pollution Source Control Administration.
- (ee) Mass Emission Rate. The mass of material discharged to the sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall be expressed as pounds per day of a particular constituent or combination of constituents.
- (ff) National Pollutant Discharge Elimination System or NPDES Permit. A permit issued pursuant to Section 402 of the Act.
- (gg) National Pretreatment Standard, Pretreatment Standard, or Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307 (b) and (c) of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5.
- (hh) New Source. Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed 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 and subject to the terms outlined in 40 CFR 403.3(m).
- (ii) Nuisance. Anything which meets all of the following requirements:
- (1) is injurious to health or is indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property, and

- (2) which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and
- (3) occurs during, or as a result of, the treatment or disposal of waste.
- (jj) Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).
- (kk) Person. Any individual, partnership, firm, association, corporation, or public agency including the State of California and the United States of America.
- (ll) pH. A measure of the acidity or alkalinity of wastewater. pH is measured on a scale of 0 to 14, 0 being extremely acidic, 7 neutral, and 14 extremely alkaline. The pH corresponds to the logarithm (base 10) of the reciprocal concentration of hydrogen ions expressed in gram-ions per liter of solution.
- (mm) Phenols. Total hydroxyl derivatives of benzene and its condensed nuclei (including phenol, chlorinated phenols, nitrophenols and chlorinated cresols) identified in Table 1, Section 307 of the Act which are detectable by EPA approved methods.
- (nn) Pollutant. Any dredge spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.
- (oo) Pollution. An alteration of the quality of the waters of the state by waste to a degree which unreasonably affects such waters for beneficial use or facilities which serve such beneficial uses. Pollution may include contamination.
- (pp) Polychlorinated biphenyls (PCBs). Total PCBs detectable by EPA approved methods.
- (qq) Premises. A parcel of real estate including any improvements thereon which is determined by the City to be a single user for purposes of receiving, using, and paying for service.
- (rr) Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a Publicly Owned Treatment Works. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by Section 2.10. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection

against surges or slug loadings that might interfere with or otherwise be incompatible with the Publicly Owned Treatment Works. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).

- (ss) Pretreatment Requirement. Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an Industrial User (IU).
- (tt) Publicly Owned Treatment Works or POTW. A treatment works as defined by section 212 of the Act, which is owned by a state or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.
- (uu) POTW Treatment Plant. That portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.
- (vv) Severe Property Damage. Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (ww) Significant Industrial User.
 - (1) All users for which federal categorical standards have been promulgated;
 - (2) Any user that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater);
 - (3) Any user that contributes a process waste stream which comprises five percent or more of the average dry weather hydraulic or organic (CBOD and SS) capacity of the POTW treatment plant;
 - (4) Any user that has a reasonable potential, in the opinion of the manager or the pretreatment program approval authority to significantly or adversely affect the POTW treatment plant.

- (5) The City may determine that an Industrial User subject to categorical pretreatment standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
- (i) The Industrial User, prior to the City's finding, has consistently complied with all applicable categorical pretreatment standards and Requirements;
 - (ii) The Industrial User annually submits the certification statement required in Section 4.09(b), together with any additional information necessary to support the certification statement; and
 - (iii) The Industrial User never discharges any untreated concentrated wastewater.
- (6) Any user classified as a significant industrial user under the above definition, except users for which federal categorical pretreatment standards have been promulgated, may be de-classified as a significant industrial user if, in the opinion of the City, the user no longer has a reasonable potential for adversely affecting the collection and/or treatment system or for violating any pretreatment regulations.
- (xx) Significant Noncompliance. An industrial user is in significant noncompliance if its discharge meets one or more of the following criteria:
- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);
 - (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease; and 1.2 for all other pollutants except pH);
 - (3) Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(l), which may include a violation of BMPs, daily maximum limits, long-term average, instantaneous limit, or narrative standard, that the City determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);

- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under authority of 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;
 - (5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
 - (6) Failure to provide, within 45 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;
 - (7) Failure to accurately report noncompliance;
 - (8) Any other violation or group of violations which the City determines will adversely affect the operation or implementation of the local pretreatment program.
- (yy) Slug Discharge. Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.
- (zz) Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snow melt.
- (aaa) Storm Sewer. A sewer which carries storm and surface waters and drainage, but which excludes sewage and industrial waste.
- (bbb) Total Suspended Solids / Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering. The term "Total Suspended Solids" is synonymous with "Suspended Solids".
- (ccc) Unpolluted Water. Water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the City for disposal to storm or natural drainages or directly to surface waters.
- (ddd) Unclassified User. A user whose discharge does not correspond to any UCC because of variations in wastewater constituents or treatment costs.
- (eee) User. A source of indirect discharge.
- (fff) User Classification Code or UCC. Code designation assigned to commercial and industrial users based on their wastewater discharge strength and characteristics in comparison with domestic wastewater.

- (ggg) Waste. Includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.
- (hhh) Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- (iii) Wastewater Constituents and Characteristics. The individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the contents, quality, quantity, and strength of wastewater.
- (jjj) Wastewater Discharge Permit or Permit. A legal document used as a control mechanism to ensure compliance with regulations that grants revocable permission to discharge wastewater to the sanitary sewer.
- (kkk) Water Quality Requirements. Requirements for the City's treatment plant effluent established by the NPDES permit, or by State or Federal regulatory agencies. Water quality requirements include effluent limitations and waste discharge standards, limitations, or prohibitions which may be established or adopted by State or Federal laws or regulatory agencies.
- (lll) Waters of the State. Any water, surface or underground, including saline waters within the boundaries of the state.

(mmm)Abbreviations. The following abbreviations shall have the designated meaning:

CBOD	–	Carbonaceous Biological Oxygen Demand
CFR	–	Code of Federal Regulations
IU	–	Industrial User
L	–	Liter
mg	–	Milligrams
mg/L	–	Milligrams per liter
NPDES	–	National Pollutant Discharge Elimination System
SIC	–	Standard Industrial Classification
TSS	–	Total Suspended Solids

1.03 Sampling and Analysis Methods and Procedures.

- (a) Analytical Requirements. Analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part

136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Manager or other parties approved by the EPA.

- (b) Sample Collection. Samples collected to satisfy reporting requirements must be obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
- (i) Except as indicated in Section 1.03(b)(ii) and (iii) below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Manager. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, phenol, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.
 - (ii) Samples for oil and grease, temperature, pH, cyanide, phenol, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
 - (iii) For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 4.01(c) and 4.01(e), a minimum of four (4) grab samples must be used for pH, cyanide, phenol, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Manager may authorize a lower minimum. For the reports required by paragraphs Section 4.01(a) (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.
- (c) All monitoring results obtained pursuant to this section must be submitted to the City, regardless of whether the City required such monitoring.

Chapter 2

REGULATIONS

2.01 Prohibitions on Discharge. No person shall discharge to the City sewer system wastes which cause, threaten to cause, or are capable of causing, either alone or by interaction with other substances:

- (a) a fire or explosion, including but not limited to discharges with a closed cup flashpoint of less than 140 °F (60 °C);
- (b) Pollutants which cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such discharges;
- (c) Heat in amounts which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW exceeds 40 °C (104 °F) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits;
- (d) obstruction of flow in a sewer system or injury of the system or damage to the wastewater collection, treatment, or disposal facilities;
- (e) danger to life or safety of personnel;
- (f) Any trucked or hauled pollutants, except at discharge points designated by the POTW;
- (g) a nuisance or prevention of the effective maintenance or operation of the sewer system, through having a strong, unpleasant odor;
- (h) air pollution by the release of toxic or malodorous gases or malodorous gas-producing substances;
- (i) interference with the wastewater treatment process that causes the City's effluent or any other product of the treatment process, residues, sludges, or scums, to be unsuitable for recycling or reuse; or interference with the recycling process;
- (j) a detrimental environmental impact or a nuisance in the waters of the state or a condition unacceptable to any public agency having regulatory jurisdiction over the City;
- (k) discoloration or any other condition in the quality of the City's treatment works effluent in such a manner that receiving water quality requirements established by law cannot be met;
- (l) conditions at or near the City's treatment works which violate any statute or any rule, regulation, or ordinance of any public agency or state or federal regulatory body;

- (m) quantities or rates of flow which overload the City's collection or treatment facilities or cause excessive collection or treatment costs to the City, or may use a disproportionate share of the City facilities;
- (n) the evolution of toxic gases, fumes, or vapors in quantities injurious to the health and safety of City personnel; or
- (o) pass-through of the City's treatment works, causing a violation of any requirement of the POTW's NPDES permit;

2.02 Prohibitions on Storm Drainage and Ground Water. Storm water, ground water, rain water, street drainage, subsurface drainage or yard drainage shall not be discharged through direct or indirect connections to a City sewer unless approved by the City. The City may approve the discharge of such water only when no reasonable alternative method of disposal is available.

If a permit is granted for the discharge of such water into a City sewer, the user may be required to pay the applicable user charges and fees and meet such other conditions as required by the City.

2.03 Limitations on Unpolluted Water. Unpolluted water, including but not limited to cooling water, process water, or blow-down from cooling towers or evaporative coolers, may be discharged through direct or indirect connection to a City sewer. The City may, at its discretion, issue a permit for discharge directly to the City sewer upon written application by the user and payment of the applicable user charges and fees.

2.04 Limitations on Radioactive Wastes. No person shall discharge or cause to be discharged into a City sewer any radioactive waste except when:

- (a) the person is authorized to use radioactive materials by the California Department of Public Health or other governmental agency empowered to regulate the use of radioactive materials; and
- (b) the waste is discharged in strict conformity with the requirements of the United States Nuclear Regulatory Commission, the United States Department of Energy, and/or the California Radiation Control Regulations; and
- (c) the person is in compliance with all rules and regulations of all other applicable regulatory agencies.

2.05 Limitations on the Use of Garbage Grinders.

Waste from garbage grinders shall not be discharged into a City sewer except:

- (a) Where the user has obtained approval from the City.
- (b) Such grinders shall shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the City sewer. Garbage grinders shall not be used for grinding plastic, paper products, inert materials, or garden refuse.

2.06 Limitations on Points of Discharge. No person shall discharge any substances into the City sewer system other than through an approved building sewer. The City may, at its discretion, issue a permit for discharge directly into a manhole or other opening in a City sewer upon written application by the user and payment of the applicable user charges and fees.

2.07 Holding Tank Waste.

- (a) A user proposing to discharge holding tank waste into a City sewer shall secure a permit. Unless otherwise allowed by the City under the terms and conditions of the permit, a separate permit shall be secured for each separate discharge.
- (b) Unless specifically accepted under the terms and conditions of the permit, no holding tank wastes from outside the City of Hayward's sewer service system shall be discharged.
- (c) The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge and the wastewater constituents and characteristics.
- (d) The waste proposed to be discharged must be tested, and the results must be transmitted to the City for review. The discharge must be approved by the City before discharge takes place.
- (e) If a permit is granted for discharge of holding tank waste into a City sewer, the user shall pay the applicable user charges and fees and shall meet such other conditions as required by the City.

2.08 Limitations on Wastewater Strength. All pretreatment limitations and prohibitions developed under federal requirements or specified in the City's Wastewater Discharge Regulations shall be deemed pretreatment standards for the purposes of section 307(d) of the Federal Water Pollution Control Act. Users must comply with the categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471. Discharge standards established herein shall be revised as necessary to comply with federal requirements documented in the Code of Federal Regulations, Title 40, Part 403.

2.08.1 No person shall discharge wastewater containing in excess of the following daily maximum limits/City's local limits:
(Amended by Ord. 93-22, adopted October 5, 1993)

1.0 mg/L arsenic
0.2 mg/L cadmium
2.0 mg/L copper
1.0 mg/L lead
0.01 mg/L mercury
1.0 mg/L nickel
0.5 mg/L silver
2.0 mg/L total chromium
3.0 mg/L zinc

2.08.2 No person shall discharge any wastewater in violation of the following instantaneous limits/City's local limits:
(Amended by Ord. 97-06, adopted May 13, 1997 and Ord. 93-22, adopted October 5, 1993)

- (a) containing in excess of 0.6 mg/L cyanide;
- (b) having a temperature higher than 150° F (65.5° C), or any thermal discharge which as a result of temperature and/or volume causes the influent of the wastewater treatment plant to exceed 104° F (40° C);
- (c) containing more than 300 mg/L of oil or grease of animal or vegetable origin, unless a higher limit is established by permit when all of the following conditions are met:
 - (1) The oil and grease is discharged in an emulsified or other form which, in the opinion of the City, poses no threat to clogging of the wastewater collection system;
 - (2) The oil and grease, in the opinion of the City, poses no threat to the operation of the wastewater treatment plant; and
 - (3) The oil and grease, in the opinion of the City, is amenable to removal and treatment by the processes utilized by the wastewater treatment plant;
- (d) containing more than 100 mg/L of oil or grease of mineral or petroleum origin;
- (e) having a pH lower than 6.0, or otherwise causing corrosive structural damage to the POTW, equipment, or the City's collection system;
- (f) containing in excess of 2.0 mg/L Total Toxic Organics (TTO), measured as the sum of:
 - 1. Acenaphthene
 - 2. Acrolein
 - 3. Acrylonitrile
 - 4. Benzene
 - 5. Benidine
 - 6. Carbon tetrachloride (tetrachloromethane)
 - 7. Chlorobenzene
 - 8. 1,2,4-trichlorobenzene
 - 9. Hexachlorobenzene
 - 10. 1,2-dichloroethane
 - 11. 1,1,1-trichloroethane
 - 12. Hexachloroethane
 - 13. 1,1-dichloroethane
 - 14. 1,1,2-trichloroethane

15. 1,1,2,2-tetrachloroethane
16. Chloroethane
17. Bis (2-chloroethyl) ether
18. 2-chloroethyl vinyl ether (mixed)
19. 2-chloronaphthalene
20. 2,4,6-trichlorophenol
21. Parachlorometa cresol
22. Chloroform (trichloromethane)
23. 2-chlorophenol
24. 1,2-dichlorobenzene
25. 1,3-dichlorobenzene
26. 1,4-dichlorobenzene
27. 3,3 dichlorobenzidine
28. 1,1-dichloroethylene
29. 1,2-trans-dichloroethylene
30. 2,4-dichlorophenol
31. 1,2-dichloropropane
32. 1,3-dichloropropylene (1,3-dichloropropene)
33. 2,4-dimethylphenol
34. 2,4-dinitrotoluene
35. 2,6-dinitrotoluene
36. 1,2-diphenylhydrazine
37. Ethylbenzene
38. Fluoranthene
39. 4-chlorophenyl phenyl ether
40. 4-bromophenyl phenyl ether
41. Bis (2-chloroisopropyl) ether
42. Bis (2-chloroethoxy) methane
43. Methylene chloride (dichloromethane)
44. Methyl chloride (chloromethane)
45. Methyl bromide (bromomethane)
46. Bromoform (tribromomethane)
47. Dichlorobromomethane
48. Chlorodibromomethane
49. Hexachlorobutadiene
50. Hexachlorocyclopentadiene
51. Isophorone
52. Naphthalene
53. Nitrobenzene
54. 2-nitrophenol
55. 4-nitrophenol
56. 2,4-dinitrophenol
57. 4,6-dinitro-o-cresol
58. N-nitrosodimethylamine
59. N-nitrosodiphenylamine
60. N-nitrosodi-n-propylamine
61. Pentachlorophenol
62. Bis (2-ethylhexyl) phthalate

63. Butyl benzyl phthalate
64. Di-n-butyl phthalate
65. Di-n-octyl phthalate
66. Diethyl phthalate
67. Dimethyl phthalate
68. 1,2-benzanthracene (benzo(a)anthracene)
69. Benzo(a)pyrene (3,4-benzopyrene)
70. 3,4-Benzofluoranthene (benzo(b)fluoranthene)
71. 11,12-benzofluoranthene (benzo(k)fluoranthene)
72. Chrysene
73. Acenaphthylene
74. Anthracene
75. 1,12-benzoperylene (benzo(ghi)perylene)
76. Fluorene
77. Phenanthrene
78. 1,2,5,6-dibenzanthracene (dibenzo(a,h)anthracene)
79. Indeno (1,2,3-cd) pyrene (2,3-o-phenylene pyrene)
80. Pyrene
81. Tetrachloroethylene
82. Toluene
83. Trichloroethylene
84. Vinyl chloride (chloroethylene)

(g) containing in excess of 5.0 mg/L Phenol

(h) containing any trace of pesticides, poly-chlorinated biphenyls (PCBs) and dioxins (e.g., TCDD) as determined by EPA-approved analytical methodologies for these compounds:

1. Aldrin
2. Dieldrin
3. Chlordane (technical mixture and metabolites)
4. 4,4-DDT
5. 4,4-DDE(p,p-DDX)
6. 4,4-DDD(p,p-TDE)
7. Alpha-endosulfan
8. Beta-endosulfan
9. Endosulfan sulfate
10. Endrin
11. Endrin aldehyde
12. Heptachlor
13. Heptachlor epoxide
14. (BHC-hexachlorocyclohexane)
15. Alpha-BHC
16. Beta-BHC
17. Gamma-BHC
18. Delta-BHC

19. (PCB-polychlorinated biphenyls)
20. PCB-1242 (Arochlor 1242)
21. PCB-1254 (Arochlor 1254)
22. PCB-1221 (Arochlor 1221)
23. PCB-1232 (Arochlor 1232)
24. PCB 1248 (Arochlor 1248)
25. PCB-1260 (Arochlor 1260)
26. PCB-1016 (Arochlor 1016)
27. Toxaphene
28. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)

For groundwater remediation permits only, the following special limits apply:

- (i) containing in excess of 5.0 mg/L total petroleum hydrocarbons--gasoline or diesel
- (j) containing in excess of 0.5 mg/L the sum of benzene, ethyl benzene, toluene, xylene.

2.08.3 Effluent limitations promulgated by the Federal Act shall apply in any instance where they are more stringent than those in these regulations. Under section 307 (b) and (c) of the Act, federal pretreatment standards are designed to achieve two purposes: (1) to protect the operation of POTWs, and (2) to prevent the discharge of pollutants which pass through POTWs inadequately treated. Users in industrial categories subject to effluent guidelines issued under section 304(b) of the Act which are discharging incompatible pollutants to POTWs are required to adopt best control technology currently available, as defined by the EPA administrator pursuant to section 304(b) of the Act.

2.08.4 The Manager or designated staff may develop BMPs, by ordinance or in individual wastewater discharge permits, to implement local limits and the requirements of Section 2.01. Such BMPs shall be considered local limits and pretreatment standards for the purposes of this Section and section 307(d) of the Act.

2.09 Prohibition on Slug Discharges. No user shall discharge any pollutant, including oxygen-demanding pollutants, at a flow rate and/or pollutant concentration which causes or threatens to cause interference with the wastewater treatment process. The City may require any user to develop a spill/slug control plan as described in Section 4.02(c)(10) of these regulations when, in the opinion of the City, a user has a demonstrated or reasonable potential to discharge in such a manner.

2.10 Use of Dilution Prohibited. No user shall increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate pretreatment to achieve compliance with a pretreatment standard, requirement or discharge limitation.

2.11 Prohibition of Bypass.

- (a) Bypass is prohibited and the City may take enforcement action against any user for bypass per 40 CFR Sec 403.17 unless:
- (1) bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - (3) the industrial user submitted notices as described in 40 CFR 403.17(c). If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the City, if possible at least ten days before the date of the bypass. An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the City within 24 hours from the time the Industrial User becomes aware of the bypass.

2.12 Prohibition on Discharge of Process Solution Tanks. No user shall, without prior and explicit approval of the City, discharge the contents, in whole or part, of any process solution tank to the sewer system. For the purposes of this section, such materials include, but are not limited to, concentrated solutions utilized within any commercial or industrial operation, containerized liquids of any description whatsoever, spoiled or otherwise unusable raw materials of any description whatsoever, spoiled or otherwise unusable products of any description whatsoever.

2.13 Prohibition on Discharge of Petroleum or Mineral Oil Causing Pass-through or Interference. Notwithstanding the provisions of Section 2.08.2(d) no user may discharge petroleum oil, non-biodegradable cutting oil or other products of mineral origin in any amount that causes interference or pass-through.

2.14 Prohibition of the Discharge of Trucked or Hauled Wastes. The discharge of any trucked or otherwise hauled wastes to the sanitary sewer system is prohibited except as the City may permit under the provisions of Section 2.07.

2.15 Requirements for Dental facilities that Remove or Place Amalgam Fillings.

This section shall be known and may be cited as the Dental Amalgam Recovery Program Ordinance of the City of Hayward.

2.15.1 Definitions. For the purposes of this section, the following definitions shall apply:

- (a) Amalgam separator. A device that employs filtration, settlement, centrifugation, or ion exchange to remove amalgam and its metal constituents from a dental office vacuum system before it discharges to the sewer.

- (b) Amalgam waste. Includes non-contact amalgam (amalgam scrap that has not been in contact with the patient); contact amalgam (including, but not limited to, extracted teeth containing amalgam); amalgam sludge captured by chairside traps, vacuum pump filters, screens, and other amalgam trapping devices; used amalgam capsules; and leaking or unusable amalgam capsules.
- (c) ISO 11143. The International Organization for Standardization's standard for amalgam separators.

2.15.2 Best Management Practices. All owners and operators of dental facilities that remove or place amalgam fillings shall comply with the following waste management practices:

- (a) Segregate amalgam containing waste. Amalgam waste must never be placed in the regular trash, placed with infectious (red bag) waste, or flushed down the drain or toilet.
- (b) Eliminate all use of bulk elemental mercury (also referred to as liquid or raw mercury). Any bulk elemental mercury must be recycled or disposed of as hazardous waste.
- (c) Use only pre-capsulated dental amalgam in the smallest appropriate size; keep a variety of amalgam capsules on hand to more closely match the amount needed in a restoration.
- (d) Change or empty chair-side traps frequently and store the trap and its contents with amalgam waste. Never rinse traps in the sink. If you have reusable traps, make sure any material you use to clean the trap is disposed of with amalgam waste.
- (e) Do not use sodium hypochlorite (bleach) and other chlorine-containing products to cleanse vacuum lines, as these products have been shown to release the mercury in the amalgam. Information on non-bleach line cleaners can be found at www.baywise.org.
- (f) Change vacuum pump filters and screens as needed or as directed by the manufacturer. Seal and store filters and screen, as well as their contents (including any water that may be present), with amalgam waste in an airtight container.
- (g) For dry vacuum turbine units, have a qualified maintenance technician, licensed amalgam recycler or hazardous waste disposal service pump out and clean the air-water separator tank at least once per six months. Perform this service more frequently if necessary to maintain suction or if so directed by the vacuum system manufacturer.
- (h) Have a licensed recycling contractor, mail-in service, or hazardous waste hauler remove your amalgam wastes. Recycling is the preferred method for disposal of amalgam wastes.

- (i) Maintain written or computerized logs of amalgam waste generated, and of amalgam waste removed from the vacuum system or plumbing. In addition, obtain receipts or other certified documentation from your recycler or hazardous waste hauler of all amalgam waste recycling and disposal shipments. Keep these receipts on file for at least five years, and make them available to authorized City inspectors upon request.
- (j) Store amalgam waste in airtight containers. Follow recycler's or hauler's instructions for disinfection of waste and separation of contact and non-contact amalgam. Do not use disinfectant solutions with oxidizers, such as bleach, to disinfect the amalgam.
- (k) Use a licensed hauler to transport spent x-ray fixer solution to be recycled or managed as hazardous waste. Never pour fixer solution down the drain.
- (l) Train staff in the proper handling, management, and disposal of mercury-containing material and fixer solutions. Maintain a training log and keep this log for at least five years. This log must be made available to authorized City inspectors upon request.

2.15.3 Amalgam Separator Requirements. All owners and operators of dental vacuum suction systems, except as set forth in subsection 2.15.4 of this section, shall comply with the following:

- (a) An ISO 11143 certified amalgam separator device shall be installed for each dental vacuum suction system on or before January 1, 2011; provided, however, that all dental facilities that are newly constructed on and after the effective date of this ordinance shall include an installed ISO 11143 certified amalgam separator device capable of removing a minimum of 95 percent of amalgam. The amalgam separator system shall be certified at flow rates comparable to the flow rate of the actual vacuum suction system operation. Neither the separator device nor the related plumbing shall include an automatic flow bypass. For facilities that require an amalgam separator that exceeds the practical capacity of ISO 11143 test methodology, a non-certified separator will be accepted, provided that smaller units from the same manufacturer and of the same technology are ISO-certified. For facilities that have installed amalgam separators on or before the effective date of this Ordinance that are not ISO-certified, they may be grandfathered in if it can be shown that the existing device provides amalgam removal similar to an ISO-certified system. Alternative materials and methods may be proposed to the Manager for approval.
- (b) Self- certification of Amalgam Separator Installation form issued by the City of Hayward shall be submitted to the Manager within 30 days of installation.
- (c) Amalgam separators shall be maintained in accordance with manufacturer recommendations. Installation, certification, and maintenance records shall

be available for immediate inspection upon request by the Manager or a designee during normal business hours.

2.15.4 Exemptions. The following types of dental practice are exempt from this Section 2.15, provided that removal or placement of amalgam fillings occurs at the facility no more than 3 days per year:

- (a) Orthodontics
- (b) Periodontics
- (c) Oral and maxillofacial surgery
- (d) Radiology
- (e) Oral pathology or oral medicine
- (f) Endodontics and prosthodontics

Chapter 3

WASTEWATER VOLUME DETERMINATION

3.01 Metered Water Supply. User charges and fees shall be determined based on the total amount of water used from all sources unless, in the opinion of the City, significant portions of water received are not discharged to a City sewer. The total amount of water used from public and private sources will be determined by means of public meters or by private meters, installed and maintained at the expense of the user and approved by the City.

3.02 Metered Wastewater Volume and Metered Diversions. For users where, in the opinion of the City, a significant portion of the water received from any metered source does not flow into a City sewer because of the principal activity of the user or removal by other means, the user charges and fees will be determined based on the volume of water discharged from such premises into a City sewer. Written notification and proof of the diversion of water shall be provided by the user if the user is to avoid the determination of user charges and fees based on the total amount of water used from all sources. The user may install a meter of a type and at a location approved by the City and at the user's expense. Such meters may measure either the amount of sewage discharged or the amount of water diverted. Such meters shall be tested for accuracy at the expense of the user when deemed necessary by the Manager.

3.03 Estimated Wastewater Volume.

- (a) Users without Source Meters. For users where, in the opinion of the City, it is unnecessary or impractical to install meters, the quantity of wastewater discharged may be based upon an estimate prepared by the City. This estimate shall be based upon a rational determination of the wastewater discharged and may consider such factors as the number of fixtures, seating capacity, population equivalent, annual production of goods and services, or such other determinants of water use necessary to estimate the wastewater volume discharged.
- (b) Users with Source Meters. For users who, in the opinion of the City, divert a significant portion of their flow from a City sewer, the user charges may be based upon an estimate of the volume to be discharged, provided the user obtains a Wastewater Discharge Permit or other approval by the City and pays the applicable user charges and fees. The estimate shall include the method and calculations used to determine the wastewater volume and may consider such factors as the number of fixtures, seating capacity, population equivalents, annual production of goods and services, or such other determinants of water use necessary to estimate the wastewater volume discharged.

ADMINISTRATION

4.01 Submission of Required Reports. The City may require that any person discharging or proposing to discharge wastewater to a City sewer file reports relating to that discharge or proposed discharge pursuant to 40 CFR 403.12. All required reports shall include the certification statements and signatory requirements described in Section 4.09 of these regulations. Required reports may include:

- (a) Wastewater Discharge Report. Wastewater Discharge Reports may include, but not be limited to: nature of process, volume, flow rates, mass emission rate, production quantities, hours of operation, number of employees, and other information which relates to the generation of waste, including wastewater constituents and characteristics in the wastewater discharge. Such reports may also include the chemical constituents and quantity of liquid or gaseous materials stored on site even though they may not normally be discharged. The City may require wastewater discharge information in the form of self-monitoring reports or periodic reports on continuing compliance. All monitoring results obtained pursuant to Section 1.03 of these regulations must be submitted to the City, regardless of whether the City required such monitoring.

The reports required in paragraph (a) of this section shall contain the results of sampling and analysis of the Discharge, including the flow and the nature and concentration, or production and mass where requested by the City, of pollutants contained therein which are limited by the applicable pretreatment standards. This sampling and analysis may be performed by the City in lieu of the Industrial User. Where the POTW performs the required sampling and analysis in lieu of the Industrial User, the user will not be required to submit the compliance certification required under Section 4.09(a). In addition, where the POTW itself collects all the information required for the report, including flow data, the Industrial User will not be required to submit the report.

The monitoring reports required in paragraph (a) of this section must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which are representative of conditions occurring during the reporting period. The City shall require the right frequency of monitoring necessary to assess and assure compliance by Industrial Users with applicable pretreatment standards and requirements. Grab samples must be used for pH, cyanide, phenol, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the City. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples must be representative of the Discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, phenol, and sulfides the

samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate.

- (b) Monitoring Waiver. 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 [see 40 CFR 403.12(e)(2)]. This authorization is subject to the following conditions:
- (1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater 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 4.02(c)(11).
 - (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 1.02(b), and include the certification statement in 4.09(c) (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 Manager 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 Manager for 3 years after expiration of the waiver.
 - (7) Upon approval of the monitoring waiver and revision of the user's permit by the Manager, the Industrial User must certify on each report with the statement in Section 4.09(c) below, that there has been no increase in the pollutant in its wastestream 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 4.01(a), or other more frequent monitoring requirements imposed by the Manager, and notify the Manager.
 - (9) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.
- (c) Baseline Monitoring Report. Categorical industrial users are required to submit a baseline monitoring report (BMR) under the circumstances set forth below. This report shall identify the facility, indicate permits held, describe operations, and contain flow and pollutant measurements. The requirements for a BMR, found in 40CFR Chapter I, Subchapter N, Part 403.12(b) are hereby incorporated into these regulations. These requirements specify conditions, including timelines, for completion of a BMR. The report shall be reviewed by an authorized representative of the user, and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required.

Baseline monitoring reports are required under the following circumstances:

- (1) At least 90 days prior to commencement of discharge for new users; or
- (2) For existing users, within 180 days after the effective date of an applicable categorical standard.

For sampling required in support of baseline monitoring and 90-day compliance reports required in paragraph (c) of this section, a minimum of four (4) grab samples must be used for pH, cyanide, phenol, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the City may authorize a lower minimum.

- (d) Compliance Schedule for the Installation of Technology. The City may require a user to develop a compliance schedule for the installation of technology to meet applicable pretreatment standards or requirements. A compliance schedule for the installation of technology may be required even without violations, if the City determines one is necessary. Progress reports for the compliance schedule shall be considered a requirement.

The following conditions shall apply to the compliance schedule required by this Section of the ordinance:

- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the

applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation). No increment referred to above shall exceed nine (9) months.

- (2) The user shall submit a progress report to the Manager no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the Manager.
- (e) Report on Compliance with Categorical Deadline. Each categorical user shall submit a report within 90 days after the final date for compliance, or upon commencement of discharge, whichever comes later. The report shall contain flow and pollutant measurements, and a certification of whether pretreatment standards are being met consistently. If pretreatment standards are not being met consistently, a description of needed additional operations and maintenance or pretreatment shall be included. This certification shall be made by a qualified professional, and the report shall be reviewed by an authorized representative of the user.
- (f) Notice of Violation/Resampling Report. If results from sampling by a user indicate a violation, the user shall notify the City within 24 hours of confirming the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City within 30 days after becoming aware of the violation.

Where the City has performed the sampling and analysis in lieu of the Industrial User, the City must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling is not required if:

- (1) The City performs sampling at the Industrial User at a frequency of at least once per month; or
 - (2) The City performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the Control Authority receives the results of this sampling.
- (g) Slug Control Plan. The City will evaluate whether each Significant Industrial User needs a plan or other action to control Slug Discharges. For Industrial Users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; additional Significant Industrial Users must be evaluated within 1 year of being designated a Significant Industrial User. Significant Industrial Users are required to notify the POTW immediately of any changes at its facility affecting potential for a Slug Discharge. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the POTW of Slug Discharges, including any Discharge that would violate a prohibition under 2.01 with procedures for follow-up written notification within five days;
- (4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response;

4.02 Wastewater Discharge Permits.

- (a) Mandatory Permits. All Significant Industrial Users proposing to connect or to discharge into a City sewer shall obtain a Wastewater Discharge Permit before connecting to or discharging into a City sewer. All existing Significant Industrial Users and unclassified users connected to or discharging into a City sewer who do not currently have a Wastewater Discharge Permit shall obtain such permit within 90 days of being notified by the City that a permit is required and shall comply with these regulations and any modifications made hereto within 90 days of their effective date.
- (b) Permit Application. Users seeking a Wastewater Discharge Permit shall complete and file with the Manager an application in the form prescribed by the Manager and accompanied by the applicable fees. The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:
 - (1) name, address, and SIC number of applicant;
 - (2) volume of wastewater to be discharged;
 - (3) wastewater constituents and characteristics including, but not limited to, those mentioned in Section 2.08 as determined by an Environmental Laboratory Accreditation Program (ELAP)-certified laboratory approved by the City;
 - (4) time and duration of discharge;
 - (5) average and 30-minute peak wastewater flow rates, including daily, monthly, and seasonal variations, if any;
 - (6) site plans, floor plans, mechanical and plumbing plans, and details to show all sewers and appurtenances by size, location, and elevation;
 - (7) description of activities, facilities, and plant processes on the premises including all materials, processes, and types of materials which are or could be discharged;

- (8) each product produced by type, amount, and rate of production;
- (9) number and type of employees, and hours of work;
- (10) slug control plan which outlines discharge practices (including non-routine batch discharges), describes stored hazardous chemicals and those with the potential to cause pollution, and contains procedures both to notify the City immediately of slug discharges and to prevent adverse impacts from any accidental spill;
- (11) any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 4.01(b) [40 CFR 403.12(e)(2)].
- (12) any other information as may be deemed by the Manager to be necessary to evaluate the permit application.

The Manager will evaluate the data and information furnished by the user and may require additional information. After evaluation and acceptance of the data and information furnished, the Manager may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

- (c) Permit Conditions. Wastewater Discharge Permits shall be expressly subject to all provisions of these regulations and all other regulations, user charges, and fees established by the City. The conditions of Wastewater Discharge Permits shall be uniformly enforced by the Manager in accordance with these regulations, and applicable state and federal regulations. Permits may contain the following:
- (1) the unit charge or schedule of user charges and fees for the wastewater to be discharged to a City sewer;
 - (2) the average and maximum wastewater constituents and characteristics, including BMPs, based on applicable pretreatment standards;
 - (3) limits on rate and time of discharge or requirements for flow regulations and equalization;
 - (4) requirements for installation of inspection and sampling facilities;
 - (5) pretreatment requirements;
 - (6) specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests, and reporting schedule required by the POTW and in accordance with self-monitoring requirements in 403.8(f)(1)(iii)(B)(4);
 - (7) requirements for submission of technical reports or discharge reports, including, but not limited to the reports described in Section 4.01 of these

regulations, or any report required by 40 CFR 403.12;

- (8) requirements for maintaining plant records relating to wastewater discharge as specified by the City, and affording City access thereto;
 - (9) mean and maximum mass emission rates, or other appropriate limits when incompatible pollutants (as defined by Section 1.02(x)) are proposed or present in the user's wastewater discharge;
 - (10) requirements to control Slug Discharge, if determined by the Manager to be necessary.
 - (11) the process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 4.01(b) and any granted monitoring waiver.
 - (12) other conditions as deemed appropriate by the City to ensure compliance with these regulations.
- (d) Duration of Permits. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period 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 City during the life of the permit as limitations or requirements as identified in Section 2.08 are modified. The user shall be informed of any proposed changes in his or her permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance if, in the City's opinion, the 30 days notice is not sufficient, except as changes apply to categorical industrial users (CIUs) subject to pretreatment standards for existing sources (PSES). CIUs subject to Pretreatment Standard for New Sources (PSNS) must achieve compliance upon discharge.
- (e) Prohibition on Transfer of a Permit. Wastewater Discharge Permits are issued to a specific user for a specific operation. A Wastewater Discharge Permit shall not be reassigned, transferred, or sold to a new owner, new user, different premises, or a new or changed operation.
- (f) Revocation of Permit. Any user who does any of the following or violates any conditions of these regulations, or applicable state and federal regulations is subject to permit revocation:
- (1) failure of the user to factually report the wastewater constituents and characteristics of his or her discharge;
 - (2) failure of the user to report and obtain prior written approval for significant changes in operations, wastewater constituents or characteristics, or flow rates;

(3) refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(4) violations of conditions of the permit.

4.03 Monitoring Facilities. The City may require the user to construct at his or her own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer or internal drainage systems and may also require sampling or metering equipment to be provided, installed, and operated at the user's expense. The monitoring facility should normally be situated on the user's premises; but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area with the approval of the public agency having jurisdiction over that street or sidewalk, and located so that it will not be obstructed by landscaping or parked vehicles.

If the monitoring facility is inside the user's fence, there shall be accommodations to allow access for City personnel, such as a gate secured with a City lock. There shall be ample room in or near such sampling manhole to allow accurate sampling and compositing of samples for analysis. The manhole, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local agency construction standards and specifications. Construction shall be completed within 90 days following written notification by the City unless a time extension is otherwise granted by the City.

4.04 Inspection and Sampling. The City may inspect the facilities of any user to verify compliance with these regulations. Persons or occupants of premises where wastewater is created or discharged shall allow the City or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection or sampling or in the performance of any of their duties. The City shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security personnel so that, upon presentation of suitable identification, personnel from the City will be permitted to enter without delay for the purposes of performing their specific responsibilities.

4.05 Pretreatment. Users shall make wastewater acceptable under the limitations established herein before discharging to any City sewer. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent wastewater acceptable to the City under the provisions of these regulations. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the City. In accordance with Public Works Policy Memo 5.11, the City may require installation of a grease control device when in the opinion of the City, such a device is necessary to prevent excessive discharge of oil and grease into the City sewer by the user.

4.06 Protection from Accidental Discharge. Each user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by these regulations. Such facilities shall be provided and maintained at the user's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility.

The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this section.

4.07 Confidential Information. All information and data on a user obtained from reports, questionnaires, permit application, permits, and monitoring programs, and from inspections, shall be available to the public or other governmental agency without restriction unless the user specifically requests it not be and is able to demonstrate to the satisfaction of the City that the release of information would divulge information, processes, or methods which would be detrimental to the user's competitive position.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available to the U.S. Environmental Protection Agency, the State Water Resources Control Board and the Regional Water Quality Control Boards, which are bound by the same confidentiality rules as the City. As outlined in 40 CFR Parts 403.8, and 403.14 and under section 308 of the Clean Water Act, all information contained in an Industrial User's file and/or submitted by an Industrial User will be available at all times to the U.S. Environmental Protection Agency.

Information accepted by the City as confidential shall not be transmitted to any person or entity unless the City is required to do so by law and upon notification to the user, except in emergency or extraordinary circumstances. The notification provision of this section shall not be construed to require the consent or approval of the user before such information is released.

Wastewater constituents and characteristics will not be recognized as confidential information.

The City shall not be liable in damages to any permit applicant or user for any negligent disclosure of any trade secret furnished to the City.

4.08 Special Agreements. Special agreements and arrangements between the City and any persons or agencies may be established when, in the opinion of the City, unusual or extraordinary circumstances compel special terms and conditions. Under no circumstances, however, will any special agreement or arrangement be established which contravenes any federal pretreatment regulation, categorical pretreatment standard, or any other provision of federal law.

4.09 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 4.02(b); users submitting baseline monitoring reports under Section 4.01(c); users submitting reports on compliance with the categorical pretreatment standard deadlines under Section 4.01(e); users submitting periodic compliance reports required by Section 4.01(a) –

(g), and users submitting an initial request to forego sampling of a pollutant on the basis of Section 4.01(b)(4). The following certification statement must be signed by an Authorized Representative as defined in Section 1.02(b):

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 Manager pursuant to Section 1.02(ww)(5) must annually submit the following certification statement signed in accordance with the signatory requirements in Section 1.02(b). This certification must accompany an alternative report required by the Manager:

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

(1) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 1.02(ww)(5);

(2) The facility complied with all applicable pretreatment standards and requirements during this reporting period; and

(3) 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 4.01(b) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user. The certification statement signed in accordance with the signatory requirements in Section 1.02(b).

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 4.01(a).

4.10 Retention of Records. Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with BMPs established under Section 2.08.4. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years, with the exception of Dental Amalgam-regulated facilities, where records have to be retained for five (5) years as listed in Section 2.15.2. This period shall be automatically extended for the duration of any litigation concerning the user, the City, the State Water Resources Control Board or their Regional Boards, or the EPA, or where the user has been specifically notified of a longer retention period by the Manager. All such records shall be made available for inspection and copying by a duly authorized representative of the City or any other governmental entity having jurisdiction.

4.11 Public Notification of Dischargers Found to be in Significant Non-Compliance. At an interval of not less than once per year, the City will publish the identities of any user(s) which is (are) found to be in significant non-compliance of any national pretreatment standard, discharge limitation or prohibition, or any other requirement of these regulations. The definition of significant non-compliance shall be as specified in 40 CFR 403.8(f)(2)(viii). The publication shall occur in a newspaper of general circulation that provides meaningful notice within the City.

4.12 Notification of Changed Conditions. Each user must notify the Manager of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.

- (a) The Manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 4.02(b) of this ordinance.
- (b) The Manager may issue an individual wastewater discharge permit or modify an existing wastewater discharge permit under Section 4.02 of this ordinance in response to changed conditions or anticipated changed conditions.

4.13 Reports of Potential Problems.

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a need for a bypass, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the Manager of the incident. This notification shall include the location of the discharge, type of waste,

concentration and volume, if known, and corrective actions taken by the user.

- (b) Within five (5) days following such discharge, the user shall, unless waived by the Manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.
- (d) Significant Industrial Users are required to notify the Manager immediately of any changes at its facility affecting the potential for a Slug Discharge.

4.14 Notification of Hazardous Waste Discharge.

- (a) Any industrial user discharging any substance which, if otherwise disposed of, would be a hazardous or acutely hazardous waste under 40 CFR 261, shall comply with the reporting requirements of 40 CFR 403.12(p)(1) and (3) unless exempted under the provisions of 40 CFR 403.12(p)(2).
- (b) In the case of any notification made under paragraph (a) above, 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, pursuant to 40 CFR 403.12(p)(4). The City may accept a copy of a hazardous waste reduction or minimization plan as otherwise required by law.

4.15 Best Management Practices. The City may require submission of information to evaluate the implementation of and/or require the implementation of (BMPs) as described in Section 2.08.4.

Chapter 5

WASTEWATER CHARGES AND FEES

5.01 Schedule of Charges and Fees. The City's schedule of charges and fees complies with the revenue requirements of the State Clean Water Grant Program. Charges and fees are determined in a manner consistent with regulations of the grant program.

5.02 Classification of Users. Users shall be classified by assigning each one to a "User Classification" category according to the principal activity conducted on the user's premises and appropriate non-industrial classifications as determined by the City. The purpose of such classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and characteristics to provide an effective means of source control, and to establish a system of user charges and fees which will ensure an equitable recovery of the City's cost.

5.03 Types of Charges and Fees. The charges for each wastewater constituent and characteristic shall be established by the City and set forth in the City's schedule of charges and fees, which may include, but not be limited to:

- (a) user classification charges;
- (b) fees for monitoring;
- (c) fees for permit applications;
- (d) appeal fees; or
- (e) charges and fees based on wastewater constituents and characteristics to include industrial cost recovery provisions of the Federal Act.

5.04 Determination of User Charges and Fees. When user classification charges are established, they shall be based upon a minimum basic charge for each premise, computed on the basis of the characteristics of wastewater from a domestic premise. The quantitative values for the characteristics, including carbonaceous biochemical oxygen demand (CBOD), suspended solids (SS), and volume of wastewater (flow), are described in the City's Master Fee Schedule.

The charges for all classifications of users other than the basic domestic premise shall be based upon the relative difference between the average wastewater constituents and characteristics of that classification as related to those of a domestic premise.

The charges and fees established for unclassified users shall be based upon the measured or estimated constituents and characteristics of that user which may include, but not be limited to, CBOD, SS, and volume.

Chapter 6

ENFORCEMENT

6.01 Enforcement Response Plan. Enforcement of pretreatment violations will generally be in accordance with the City's Enforcement Response Plan. However, the Manager may take other action against any user when the circumstances warrant. Further, the Manager is empowered to take more than one enforcement action against any noncompliant user.

6.02 Notification of Discharge. Users shall notify the City immediately upon accidentally discharging wastes in violation of these regulations and/or discharging any slug loading, to enable countermeasures to be taken by the City to minimize damage to the City sewer, treatment facility, treatment processes, and the receiving waters.

This notification shall be followed by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrence, to be received by the City within five calendar days of the date of occurrence.

Such notification will not relieve users of liability for any expense, loss, or damage to the sewer system, treatment plant, or treatment process, or for any fines imposed on the City on account thereof under section 13350 of the California Water Code, or for violations of section 5650 of the California Fish and Wildlife (previously known as California Fish and Game) Code.

6.03 Warning Notice. The Manager may issue a warning notice as the first level of written enforcement. Warning notices are written letters sent to industrial users in response to most initial instances of sampling violations, exceedances of local and federal limits, late reports that are less than 45 days late, and other minor violations. The industrial user shall respond in writing within fifteen (15) days of the date of the warning letter unless otherwise indicated by the Manager. This response shall include, at a minimum, an explanation of the reasons/causes of the violation and corrective actions to be implemented by the industrial user to prevent future violations.

6.04 Notification of Violation (NOV). When the Manager finds that a user 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, Manager may serve upon that user a written Notice of Violation. Within fifteen (15) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to Manager. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation.

6.05 Administrative Citation. Administrative citations may be issued for violations of the City of Hayward Municipal Code at the discretion of the Manager. If violations listed on a citation are not corrected within a specified time, fines may be assessed. Fines escalate with each successive citation for uncorrected violations. Violators may appeal an administrative citation and request an administrative hearing per the process defined in Section 7.09 of this document.

6.06 Administrative Order. An administrative consent, show cause, or compliance order may be issued to direct an IU to take a particular step in order to regain compliance. These orders are handled on a case-by-case basis, and there is no standard time frame as to when they are issued.

- (a) Consent Orders. The Manager may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as administrative fines issued pursuant to Section 7.09 of this ordinance and shall be judicially enforceable.
- (b) Show Cause Hearing. The Manager 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 Manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place 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 fifteen (15) days prior to the hearing. Such notice may be served on any Authorized Representative of the user as defined in Section 1.02(b). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.
- (c) Compliance Orders. When the Manager finds that a user 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, the Manager may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

6.07 Issuance of Cease and Desist Orders. When the City finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of these regulations, or the provisions of a Wastewater Discharge Permit, the Manager may issue an order to cease and desist, and direct that those not complying with such prohibitions, limits, requirements, or provisions:

- (a) comply forthwith;
- (b) comply in accordance with a time schedule set forth by the City; or
- (c) take appropriate remedial or preventive action in the event of a threatened violation.

6.08 Submission of Time Schedule. When the City finds that a discharge of wastewater has been

taking place in violation of prohibitions or limitations prescribed in these regulations, or wastewater source control requirements, effluent limitations or pretreatment standards, or the provisions of a Wastewater Discharge Permit, the City may require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of the requirements.

6.09 Appeals. Any user, permit applicant, or permit holder affected by any decision, action, or determination, including cease and desist orders made by the Manager, interpreting or implementing the provisions of these regulations or in any permit issued herein, may file with the Manager a written request for reconsideration within ten days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.

If the ruling made by the Manager is unsatisfactory to the person requesting reconsideration, he or she may, within ten days after notification of City action, file a written appeal to the City Council. The written appeal shall be heard by the City Council, within 30 days of its filing date. A final ruling on the appeal shall be rendered within 10 days of the close of the hearing. The Manager's decision, action, or determination shall remain in effect during such period of reconsideration.

6.10 Notices to Employees. In order that employees of users are informed of City requirements, users shall make available to their employees copies of these regulations together with such other wastewater information and notices directed toward more effective water pollution control which may be periodically furnished by the City. A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of an accidental discharge in violation of these regulations, as listed below:

Weekdays, 8 AM – 5 PM:	Water Pollution Source Control, 510-881-7900
Weekdays after 5 PM, and Weekends:	Water Pollution Control Facility, 510-293-5398
Police, Fire, or Medical Emergencies:	911

Chapter 7

ABATEMENT

7.01 Public Nuisance. Discharge of wastewater in any manner in violation of these regulations or of any order issued by the Manager as authorized by these regulations, is hereby declared a public nuisance and shall be corrected or abated as directed by the Manager. Any person creating a public nuisance shall be subject to provisions of City codes or ordinances governing such nuisance.

7.02 Injunction. The City may petition the superior court for the issuance of preliminary or permanent injunctive relief, or both, as may be appropriate, for noncompliance by users with pretreatment standards and requirements. Noncompliance relates both to discharge and non-discharge violations.

7.03 Damage to Facilities. When a discharge of wastes causes an obstruction, damage, or any other impairment to City facilities, the City may assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's charges and fees.

7.04 Civil Penalties. Any person who violates any provision of these regulations or permit conditions, or who discharges wastewater which causes pollution, or who violates any cease and desist order, prohibition, effluent limitation, national performance, pretreatment or toxicity standard, shall be liable civilly to penalties imposed by the City for the violation(s). The City Attorney, upon order of the City Council, shall petition the superior court to impose, assess, and recover such sums as may be applicable. In addition, the City may refer any violations of these regulations to the office of the Alameda County District Attorney for civil prosecution under any applicable statute or provision of law.

7.05 Criminal Penalties. Any person who violates any provision of these regulations, or of a permit or a cease and desist order issued pursuant to these regulations, is guilty of a public offense. The classification of such public offense and the punishment therefor shall be as provided by regulations of the City.

7.06 Falsifying Information. Any person who knowingly makes any false statement, representation, record, report, plan, or other document filed with the City, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under these regulations, shall be punished in accordance with the City codes or ordinances governing such falsifications. The City Attorney, upon order of the City Council, shall petition the Superior Court to impose, assess, and recover such sums as may be applicable.

7.07 Termination of Service. The City may revoke any Wastewater Discharge Permit, or terminate or cause to be terminated wastewater service to any premises, if a violation of any provision of these regulations is found to exist or if a discharge of wastewater causes or threatens to cause a condition of contamination, pollution, or nuisance as defined in these regulations. Furthermore, whenever any discharge of wastewater is deemed by the City to be an imminent and significant threat to the operation of the wastewater treatment plant, the health and safety of City personnel or the public, or the quality of the waters of the state, the City may, without prior notice and by whatever means or combination of means available, terminate wastewater service to any premises. This provision is in addition to other statutes, rules, or regulations, authorizing termination of service for delinquency in payment.

7.08 Legal Authority to Protect POTW. In accordance with section 54739 of the California Government Code, the City may require any of the following:

- (a) Pretreatment of any industrial waste which the City determines is necessary in order to meet standards established by the federal or California state government or other regulatory agencies or which the City determines is necessary in order to protect its treatment works or the proper and efficient operation thereof or the health and safety of its employees or the environment.
- (b) The prevention of the entry of such industrial waste into the collection system and treatment works.
- (c) The payment of excess costs incurred by the City as a result of entry of such industrial waste into the collection system and treatment works.

7.09 Administrative Fine Procedure.

- (a) In accordance with section 54740.5 of the California Government Code, the City may issue an administrative complaint to any person who violates any requirement adopted or ordered by the City pursuant to paragraphs (a) and (b) of Section 7.08. The administrative complaint shall allege the act or failure to act that constitutes the violation of the City's requirements, the provisions of law authorizing civil liability to be imposed, and the proposed civil penalty.
- (b) The administrative complaint shall be served by personal delivery or certified mail on the person subject to the City's discharge requirements, and shall inform the person served that a hearing shall be conducted within 60 days after the person has been served. The hearing shall be before the Manager or his or her designee, hereafter "hearing officer". The person who has been issued an administrative complaint may waive the right to a hearing, in which case the City shall not conduct a hearing. A person dissatisfied with the decision of the hearing officer may appeal to the City Council within 30 days of notice of the hearing officer's decision.
- (c) If after the hearing or appeal it is found that the person has violated reporting or discharge requirements, the hearing officer may assess a civil penalty against that person. In determining the amount of the civil penalty, the hearing officer or City Council may take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the economic benefit derived through any noncompliance, the nature and persistence of the violation, the length of time over which the violation occurs and corrective action, if any, attempted or taken by the discharger.
- (d) Civil penalties may be imposed by the City as follows:
 - (1) In an amount which shall not exceed \$2,000 for each day for failing or refusing to furnish technical or monitoring reports.
 - (2) In an amount which shall not exceed \$3,000 for each day for failing or refusing to timely comply with any compliance schedule established by the City.

- (3) In an amount which shall not exceed \$5,000 per violation for each day for discharges in violation of any waste discharge limitation, permit condition, or requirement issued or adopted by the City.
- (4) In an amount which does not exceed \$10 per gallon for discharges in violation of any suspension, cease and desist order or other orders, or prohibition issued, reissued, or adopted by City.
- (5) The amount of any civil penalties imposed under this section which have remained delinquent for a period of 60 days shall constitute a lien against the real property of the discharger from which the discharge originated resulting in the imposition of the civil penalty. The lien provided herein shall have no force and effect until recorded with the county recorder and when recorded shall have the force and effect and priority of a judgment lien and continue for 10 years from the time of recording unless sooner released and shall be renewable in accordance with the provisions of sections 683.110 to 683.220, inclusive, of the Code of Civil Procedure.
- (e) All monies collected under this section shall be deposited in a special account of the City and shall be made available for the monitoring, treatment, and control of discharges into the City's sewer system or for other mitigation measures.
- (f) Unless appealed, orders setting administrative civil penalties shall become effective and final upon issuance thereof, and payment shall be made within 30 days. Copies of these orders shall be served by personal service or by registered mail upon the party served with the administrative complaint and upon other persons who appeared at the hearing and requested a copy.
- (g) The City may, at its option, elect to petition the Superior Court to confirm any order establishing civil penalties and enter judgment in conformity therewith in accordance with the provisions of sections 1285 to 1287.6, inclusive, of the Code of Civil Procedure.
- (h) No penalties shall be recoverable under this section for any violation for which civil liability is recovered under Section 7.04.
- (i) Any party aggrieved by a final order issued by the City Council under this section, after granting review of the order of a hearing officer, may obtain review of the order of the Council in the Superior Court by filing in the court a petition for writ of mandate within 30 days following the service of a copy of the decision and order issued by the Council. Any party aggrieved by a final order of a hearing officer issued under this section, for which the Council denies review, may obtain review of the order of the hearing officer in the Superior Court by filing in the court a petition for writ of mandate within 30 days following service of a copy of a decision and order denying review of the Council.
- (j) If no aggrieved party petitions for writ of mandate within the time provided by this section, an order of the Council or a hearing officer shall not be subject to review by

any court or agency, except that the Council may grant review on its own motion of an order issued under this section after the expiration of the time limits set by that section.

- (k) The evidence before the court shall consist of the record before the Council, including the hearing officer's record, and any other relevant evidence which, in the judgment of the court, should be considered to effectuate and implement policies of Title 5, Division 2 of the Government Code. In every such case the court shall exercise its independent judgment on the evidence.
- (l) Except as otherwise provided in this section, subdivisions (e) and (f) of section 1094.5 of the California Code of Civil Procedure shall govern proceedings pursuant to this section.

Chapter 8

SEVERABILITY

If any provision of these regulations or the application to any person or circumstances is held invalid, the remainder of the regulations or the application of such provisions to other persons or other circumstances shall not be affected.”

Chapter 11, Article 3, Appendix “A” amended by Ord. 13-19, adopted December 17, 2013.