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13.10.010. Industrial pretreatment program purpose and policy.

This section of this chapter sets forth uniform requirements for users of the publicly owned treatment works for the city of Newport and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code Section 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this chapter are:

- A. To prevent the introduction of pollutants into the Newport water pollution control facility that will interfere with its operation;
- B. To prevent the introduction of pollutants into the Newport water pollution control facility that will pass through the Newport water pollution control facility, inadequately treated, into receiving waters, or otherwise be incompatible with the Newport water pollution control facility;
- C. To protect both Newport water pollution control facility personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the Newport water pollution control facility;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Newport water pollution control facility; and

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- F. To enable the city to comply with its Rhode Island Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the Newport water pollution control facility is subject.

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

(Ord. 2000-22 § 1, 2000)

13.10.020. Administration.

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

(Ord. 2000-22 § 1, 2000)

13.10.030. Definitions.

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

"Act or the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

"Approval authority" means the city of Newport pretreatment program of the Newport water pollution facility identifies the Rhode Island Department of Environmental Management as its approval authority.

"Authorized representative of the user" means:

1. If the user is a corporation:
 - a. 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
 - b. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second-quarter 1980 dollars), if 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 another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

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"Best management practices (BMP's)" means management and operational procedures that are intended to prevent pollutants from entering a facility's wastestream or from reaching a discharge point. They also include treatment requirements, operating procedures, practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

"Biochemical Oxygen Demand" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at twenty (20) centigrade, usually expressed as a concentration (e.g., mg/l).

"BOD" means biochemical oxygen demand.

"Categorical pretreatment standard or categorical standard" means 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) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

"CFR" means Code of Federal Regulations.

"COD" means chemical oxygen demand.

"City" means the city of Newport.

"Director" means the director of Newport water pollution control, acting on behalf of the city, or his or her authorized deputy, agent or representative.

"Environmental Protection Agency" means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division director, or other duly authorized official of said agency.

"EPA" means Environmental Protection Agency.

"Existing source" means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

"gbd" means gallons per day.

"Grab sample" means a sample which 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.

"Indirect discharge" or "discharge" means the introduction of pollutants into the NWPCF from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

"Industrial waste" means wastewater from industrial processes, trade or business, as distinct from domestic or sanitary.

"Instantaneous maximum allowable discharge limit" means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

"Interference" means a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the NWPCF, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the city's RIPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

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"Medical waste" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

"mg/l" means milligrams per liter.

"Newport water pollution control facility" means a "treatment works," as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

"NWPCF" means Newport water pollution control facility.

"New Source" means:

1. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) of this section but otherwise alters, replaces, or adds to existing process or production equipment.
3. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - a. Begun, or caused to begin, as part of a continuous onsite construction program;
 - i. Any placement, assembly, or installation of facilities or equipment; or
 - ii. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

"Noncontact cooling water" means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

"Pass through" means a discharge which exits the NWPCF into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other

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sources, is a cause of a violation of any requirement of the city's RIPDES permit, including an increase in the magnitude or duration of a violation.

"Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

"Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the NWPCF. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

"Pretreatment requirements" means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

"Pretreatment standards" or "standards" means prohibited discharge standards, categorical pretreatment standards, and local limits.

"Prohibited discharge standards" or "Prohibited discharges" means absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this chapter.

"RCRA" means Resource Conservation and Recovery Act.

"RIPDES" means Rhode Island Discharge Elimination System.

"Septic tank waste" means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

"Sewage" means any human or animal excremental liquid or substance, any decomposing animal or vegetable matter, garbage, filth, waste, chemicals, acid dyestuff, starch, coloring matter, oil, tar, radioactive substances and any compound, solution, mixture or product thereof, and every substance which is likely to be injurious to public health, safety, well-being or comfort, or which would injuriously affect the natural and healthy propagation. Growth or development of any fish or shellfish in the waters of this state, or the nourishment of the same, which would injuriously affect the flavor, taste or value as food of any such fish or shellfish, or which would defile or foul such waters or injure or defile any vessel, boat, wharf, pier or any public or private property upon, in or under such waters or any shore thereof.

"Significant industrial user" means:

1. A user subject to categorical pretreatment standards; or
2. A user that:
 - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the NWPCF (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - b. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the NWPCF treatment plant; or

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- c. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the NWPCF's operation or for violating any pretreatment standard or requirement.
3. Upon a finding that a user meeting the criteria in subsection (2)(b) under "significant industrial user" has no reasonable potential for adversely affecting the NWPCF's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

"Slug load" or "slug" means any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits, or permit conditions.

"Standard Industrial Classification (SIC) Code." A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

"Storm water" means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

"Suspended solids" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

"TSS" means total suspended solids.

"User" or "industrial user." A source of indirect discharge.

"Wastewater" means 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 NWPCF.

"Wastewater treatment plant" or "treatment plant" means that portion of the NWPCF which is designed to provide treatment of municipal sewage and industrial waste.

(Ord. 2008-37 § 1 (part), 2008; Ord. 2000-22 § 1, 2000)

13.10.040. Prohibited discharge standards.

- A. No user shall introduce or cause to be introduced into the NWPCF any pollutant or wastewater, which causes pass through or interference. These general prohibitions apply to all users of the NWPCF whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.
- B. Specific Prohibitions. No user shall introduce or cause to be introduced into the NWPCF the following pollutants, substances, or wastewater:
 1. Pollutants which create a fire or explosive hazard in the NWPCF, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 F (60 C) using the test methods specified in 40 CFR 261.21;
 2. Wastewater having a pH less than 5.0 (or more than 10.5), or otherwise causing corrosive structural damage to the NWPCF or equipment;
 3. Solid or viscous substances in amounts which will cause obstruction of the flow in the NWPCF resulting in interference but in no case solids greater than .5 inch in any dimension;

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4. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the NWPCF;
5. Wastewater having a temperature greater than 104 degrees Fahrenheit [40 degrees C]), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 F (40 C);
6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the NWPCF in a quantity that may cause acute worker health and safety problems;
8. Trucked or hauled pollutants, except at discharge points designated by the director in accordance with Section 13.10.050 D;
9. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
10. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's RIPDES permit;
11. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
12. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the director;
13. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
14. Medical wastes, except as specifically authorized by the director in a wastewater discharge permit;
15. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
16. Detergents, surface-active agents, or other substances which may cause excessive foaming in the NWPCF;
17. Fats, oils, or greases of animal or vegetable origin in concentrations greater than those specified in the city's most current technically-based local limits; or
18. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the NWPCF, or at any point in the NWPCF, of more than five percent or any single reading over ten percent of the lower explosive limit of the meter.

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

- C. National Categorical Pretreatment Standards. The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are incorporated.
 1. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

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2. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
 3. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
 4. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
- D. Local Limits. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum limitations in mg/l (unless otherwise noted):

Parameter	Surcharge Limit	Upper Limit
Cadmium		0.040
Chromium		1.710
Copper		1.000
Lead		0.100
Silver		0.240
Zinc		1.200
Nickel		2.000
Cyanide		0.650
Mercury		0.060
Arsenic		0.120
Total Toxic Organics (TTO)		2.130
BOD	300	200 lbs/day
TSS	300	1000

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TPH		2.0
Gold		3.0
Iron		15.0
Tin		0.0
Metals not mentioned		2.0
Sulfides (S)		100.0
Sulfates (SO4)		500.0
Fluoride		5.0
Mercuric Chloride (as Mercury, Hg)		0.5
Phenols (not to exceed)		1.0
Solvents		0.0
Total Oil & Grease		100.0

The above limits apply at the point where the wastewater is discharged to the NWPCF. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The director may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

- E. City's Right of Revision. The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the NWPCF.
- F. Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. 2007-8 § 1, 2007; Ord. 2000-22 § 1, 2000)

(Ord. No. 2009-12, § 1, 5-13-2009)

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13.10.050. Pretreatment of wastewater.

- A. Pretreatment Facilities. Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 13.10.040 of this ordinance within the time limitations specified by EPA, the state, or the director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the director for review, and shall be acceptable to the director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this chapter.
- B. Additional Pretreatment Measures.
1. Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the NWPCF and determine the user's compliance with the requirements of this chapter.
 2. The director may require any person discharging into the NWPCF to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
 3.
 - a. Grease, oil, and sand recovery devices shall be provided when, in the opinion of the director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such recovery devices shall not be required for residential users. All interception units shall conform with the Building Officials Code Administrators Basic Plumbing Code, Article 10, Section P1002, or its most recent revision.
 - b. All recovery devices shall be of the capacity specified by the manufacturer and shall be installed as per manufacturers specifications. All such pretreatment apparatus shall be approved by the director or other authorized city inspector prior to installation. All recovery devices shall be so located to be easily accessible for cleaning and inspection.
 - c. Recovery devices shall be inspected, cleaned, and repaired regularly, as per manufacturer specifications or appropriate plumbing codes, by the user at their expense and records must be kept for all such activities. These records must be provided to the director or other authorized city inspector on demand, and must be kept for a minimum of three years. Collected materials shall not be introduced into the NWPCF and must be disposed of through a privately hired rendering service. Records of such rendering service use must be provided to the director or other authorized city inspector on demand.
 - d. All existing establishments must have installed recovery devices according to the aforementioned conditions within a year of the effective date of the ordinance codified in this chapter.
 4. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- C. Within one year of being designated as significant industrial user (SIU), all SIU's will be evaluated on whether or not each SIU needs a plan or procedure to control slug discharges. The director may require any user to develop, submit for approval, and implement such a plan. Alternatively, the director may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

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1. Description of discharge practices, including non-routine batch discharges;
2. Description of stored chemicals;
3. Procedures for immediately notifying the director of any accidental or slug discharge, as required by Section 13.10.080(F) of this chapter; and
4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents and/or measures and equipment for emergency response.

D. Hauled Wastewater.

1. Septic tank waste may be introduced into the NWPCF only at locations designated by the director, and at such times as are established by the director. Such waste shall not violate Section 13.10.040 of this chapter or any other requirements established by the city. The director may require currently licensed waste disposal contractors to obtain wastewater discharge permits.
2. The director shall require haulers of industrial waste to obtain wastewater discharge permits. The director may require generators of hauled industrial waste to obtain wastewater discharge permits. The director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.
3. Industrial waste haulers may discharge loads only at locations designated by the director. No load may be discharged without prior consent of the director. City staff may collect samples of each hauled load to ensure compliance with applicable standards. The director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
4. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(Ord. 2008-37 § 1 (part), 2008; Ord. 2000-22 § 1, 2000)

13.10.060. Wastewater discharge permit application.

- A. Wastewater Analysis. When requested by the director, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The director is authorized to prepare a form for this purpose and may periodically require users to update this information.
- B. Wastewater Discharge Permit Requirement.
 1. No significant industrial user shall discharge wastewater into the NWPCF without first obtaining a wastewater discharge permit from the director, except that a significant industrial user that has filed a timely application pursuant to Section 13.10.060(C) of this chapter may continue to discharge for the time period specified therein.
 2. The director may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this chapter.
 3. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of the ordinance codified in this chapter and subjects the wastewater discharge permittee to the sanctions set out in Sections 13.10.120 through 13.10.140 of this chapter.

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Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

- C. Wastewater Discharge Permitting—Existing Connections. Any user required to obtain a wastewater discharge permit who was discharging wastewater into the NWPCF prior to the effective date of this chapter and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the director for a wastewater discharge permit in accordance with Section 13.10.060(E) of this chapter, and shall not cause or allow discharges to the NWPCF to continue after ninety (90) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the director.
- D. Wastewater Discharge Permitting—New Connections. Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the NWPCF must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 13.10.060(E) of this chapter, must be filed at least forty-five (45) days prior to the date upon which any discharge will begin or recommence.
- E. Wastewater Discharge Permit Application Contents. All users required to obtain a wastewater discharge permit must submit a permit application. The director may require all users to submit as part of an application the following information:
 - 1. All information required by Section 13.10.080(B) of this chapter;
 - 2. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the NWPCF;
 - 3. Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - 4. Each product produced by type, amount, process or processes, and rate of production;
 - 5. Type and amount of raw materials processed (average and maximum per day);
 - 6. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
 - 7. Time and duration of discharges; and
 - 8. Any other information as may be deemed necessary by the director to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

- F. Application Signatories and Certification. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

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

- G. Wastewater Discharge Permit Decisions. The director will evaluate the data furnished by the user and may require additional information. Within forty-five (45) days of receipt of a complete wastewater discharge permit application, the director will determine whether or not to issue a

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wastewater discharge permit. The director may deny any application for a wastewater discharge permit.

(Ord. 2000-22 § 1, 2000)

13.10.070. Wastewater discharge permit issuance process.

- A. Wastewater Discharge Permit Duration. A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the director. Each wastewater discharge permit will indicate a specific date upon which it will expire.
- B. Wastewater Discharge Permit Contents. A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the NWPCF.
 - 1. Wastewater discharge permits must contain:
 - a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;
 - b. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with Section 13.10.070(E) and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
 - c. Effluent limits, including best management practices, based on applicable pretreatment standards, categorical pretreatment standards, local limits, and state and local law;
 - d. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
 - e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.
 - 2. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
 - a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
 - d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the NWPCF;
 - e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the NWPCF;

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- f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
 - g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
 - h. Other conditions as deemed appropriate by the director to ensure compliance with this ordinance, and state and federal laws, rules, and regulations.
- C. Wastewater Discharge Permit Appeals. The director shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the director to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of its issuance.
- 1. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
 - 2. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
 - 3. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
 - 4. If the director fails to act within ninety (90) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
 - 5. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the municipal court of the city of Newport within twenty (20) days.
- D. Wastewater Discharge Permit Modification. The director may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
- 1. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 - 2. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
 - 3. A change in the NWPCF that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - 4. Information indicating that the permitted discharge poses a threat to the city NWPCF, city personnel, or the receiving waters;
 - 5. Violation of any terms or conditions of the wastewater discharge permit;
 - 6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - 7. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
 - 8. To correct typographical or other errors in the wastewater discharge permit; or
 - 9. To reflect a transfer of the facility ownership or operation to a new owner or operator.
- Modification for this purpose may not be allowed unless the permit is transferable as provided in Section 13.10.070(E).

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- E. Wastewater Discharge Permit Transfer. Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least forty-five (45) days advance notice to the director and the director approves the wastewater discharge permit transfer. The notice to the director must include a written certification by the new owner or operator which:
1. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
 2. Identifies the specific date on which the transfer is to occur; and
 3. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

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

- F. Wastewater Discharge Permit Revocation. The director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
1. Failure to notify the director of significant changes to the wastewater prior to the changed discharge;
 2. Failure to provide prior notification to the director of changed conditions pursuant to Section 13.10.080E;
 3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
 4. Falsifying self-monitoring reports;
 5. Tampering with monitoring equipment;
 6. Refusing to allow the director timely access to the facility premises and records;
 7. Failure to meet effluent limitations;
 8. Failure to pay fines;
 9. Failure to pay sewer charges;
 10. Failure to meet compliance schedules;
 11. Failure to complete a wastewater survey or the wastewater discharge permit application;
 12. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
 13. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

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

- G. Wastewater Discharge Permit Reissuance. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 13.10.060(E) of this chapter, a minimum of forty-five (45) days prior to the expiration of the user's existing wastewater discharge permit.
- H. Regulation of Waste Received from Other Jurisdictions.
1. If another municipality, or user located within another municipality, contributes wastewater to the NWPCF, the director shall enter into an intermunicipal agreement with the contributing municipality.

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2. Prior to entering into an agreement required by paragraph 1, above, the director shall request the following information from the contributing municipality:
 - a. A description of the quality and volume of wastewater discharged to the NWPCF by the contributing municipality;
 - b. An inventory of all users located within the contributing municipality that are discharging to the NWPCF; and
 - c. Such other information as the director may deem necessary.
3. An intermunicipal agreement, as required by subsection (H)(1) of this section, shall contain the following conditions:
 - a. A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in Section 13.10.040(D). The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance or local limits within thirty (30) days of the earlier of either the date of their enactment by the city or receipt of notice from RIDEM that an amendment to the ordinance or limits is required. The contributing municipality must further agree that it will not independently modify or amend its ordinance without written approval of the city and RIDEM, and that said ordinance will be amended from time to time to conform to the latest EPA or RIDEM requirements;
 - b. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
 - c. A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the director; and which of these activities will be conducted jointly by the contributing municipality and the director;
 - d. A requirement for the contributing municipality to provide the director with access to all information that the contributing municipality obtains as part of its pretreatment activities;
 - e. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the NWPCF;
 - f. Requirements for monitoring the contributing municipality's discharge;
 - g. A provision ensuring the director access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the director; and
 - h. A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

(Ord. 2008-37 § 1 (part), 2008; Ord. 2000-22 § 1, 2000)

13.10.080. Reporting requirements.

A. Baseline Monitoring Reports.

1. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the NWPCF shall submit to the director a report which contains the information listed in subsection B of this section. At least ninety (90) days prior to

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commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report which contains the information listed in subsection B of this section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

2. Users described above shall submit the information set forth below.
 - a. Identifying Information. The name and address of the facility, including the name of the operator and owner.
 - b. Environmental Permits. A list of any environmental control permits held by or for the facility.
 - c. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the NWPCF from the regulated processes.
 - d. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the NWPCF from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
 - e. Measurement of Pollutants.
 - i. The categorical pretreatment standards applicable to each regulated process.
 - ii. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection J of this section. In cases where the standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the city or the applicable standards to determine compliance with the standard.
 - iii. Sampling must be performed in accordance with procedures set out in subsection K of this section.
 - f. Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
 - g. Compliance Schedule. If additional pretreatment and/or O and M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection B of this section.
 - h. Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 13.10.060(F).
- B. Compliance Schedule Progress Reports. The following conditions shall apply to the compliance schedule required by subsection (A)(2)(g) of this section:

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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);
 2. No increment referred to above shall exceed nine months;
 3. The user shall submit a progress report to the director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
 4. In no event shall more than nine months elapse between such progress reports to the director.
- C. Reports on Compliance with Categorical Pretreatment Standard Deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the NWPCF, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in subsections (A)(2)(d) through (A)(2)(f) of this section. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 13.10.060. In cases where the pretreatment standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation required by the city or the pretreatment standard necessary to determine the compliance status of the user. At the discretion of the city and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the city may modify the months during which the above reports are to be submitted.
- D. Periodic Compliance Reports.
1. All significant industrial users shall, at a frequency determined by the director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 13.10.060(F). In cases where a local limit requires compliance with a best management practice or pollution prevention alternative, the user may submit documentation required by the city to determine compliance status of the user.
 2. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
 3. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director, using the procedures prescribed in subsection K of this section, the results of this monitoring shall be included in the report.
- E. Reports of Changed Conditions. Each user must notify the director of any planned 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.

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1. The director 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 13.10.060(E).
 2. The director may issue a wastewater discharge permit under Section 13.10.060(G) or modify an existing wastewater discharge permit under Section 13.10.070(D) in response to changed conditions or anticipated changed conditions.
 3. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty (20) percent or greater, and the discharge of any previously unreported pollutants.
- F. Reports of Potential Problems.
1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the NWPCF, the user shall immediately telephone and notify the director 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.
 2. Within five days following such discharge, the user shall, unless waived by the director, 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 may be incurred as a result of damage to the NWPCF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.
 3. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection A of this section. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- G. Reports from Unpermitted Users. All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the director as the director may require.
- H. Notice of Violation/Repeat Sampling and Reporting. If sampling performed by a user indicates a violation, the user must notify the director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within thirty (30) days after becoming aware of the violation. The user is not required to resample if the director monitors at the user's facility at least once a month, or if the director samples between the user's initial sampling and when the user receives the results of this sampling.
- I. Notification of the Discharge of Hazardous Waste.
1. Any user who commences the discharge of hazardous waste shall notify the NWPCF, the EPA Regional Waste Management Division director, and state hazardous waste authorities, in writing, of any discharge into the NWPCF of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the NWPCF, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to

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be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under subsection E of this section. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections A, B, and D of this section.

2. Dischargers are exempt from the requirements of subsection A of this section, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
 3. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the director, the EPA Regional Waste Management Waste Division director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
 4. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
 5. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable federal or state law.
- J. Analytical Requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.
- K. Sample Collection.
1. Except as indicated in Section B, below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the director may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
 2. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- L. Timing. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.
- M. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, including documentation

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associated with best management practices. 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 years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the director.

(Ord. 2008-37 § 1 (part), 2008; Ord. 2000-22 § 1, 2000)

13.10.090. Compliance monitoring.

- A. **Right of Entry—Inspection and Sampling.** The director shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
1. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director will be permitted to enter without delay for the purposes of performing specific responsibilities.
 2. The director shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
 3. The director may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at the manufacturer's recommended frequency to ensure their accuracy.
 4. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the director shall not be replaced. The costs of clearing such access shall be born by the user.
 5. Unreasonable delays in allowing access to the user's premises shall be a violation of this chapter.
- B. **Search Warrants.** If the access to a building, structure, or property, or any part thereof has been refused, and there is probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the director may seek issuance of a search warrant from the Municipal Court of the city.

(Ord. 2000-22 § 1, 2000)

13.10.100. Confidential information.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the direct inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the

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information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the RIPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. 2000-22 § 1, 2000)

13.10.110. Publication of users in significant noncompliance.

The director shall publish annually, in the largest daily newspaper published in the municipality where the NWPCF is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) 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(1);
2. Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) 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(1) 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(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW 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 pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the director exercise of its emergency authority to halt or prevent such a discharge;
5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance; or
8. Any other violation(s) which the director determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. 2008-37 § 1 (part), 2008; Ord. 2000-22 § 1, 2000)

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13.10.120. Administrative enforcement remedies.

- A. Notification of Violation. When the director finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon that user a written notice of violation. Within ten days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
- B. Consent Orders. The director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 13.10.120(D) and 13.10.120(E) of this chapter and shall be judicially enforceable.
- C. Show Cause Hearing. The director may order a user which has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Newport city council and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least seven days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.
- D. Compliance Orders. Compliance orders will be issued by the utilities director to achieve or restore to compliance by a date certain. These orders may be negotiated with the user or required by the utilities director. These orders may be issued when a user has neglected or refused to develop or comply with the conditions of the Industrial Pretreatment Program, spill prevention programs and/or related city of Newport sewer use chapters.

The utilities director or his or her designee will prepare the compliance order. The compliance order outlines the noncompliance and the required corrective actions to be accomplished by date certain. Compliance orders may be accompanied by an assessment of an administrative fine. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

- E. Cease and Desist Orders. When the director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the director may issue an order to the user directing it to cease and desist all such violations and directing the user to:
 - 1. Immediately comply with all requirements; and
 - 2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

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

- F. Administrative Fines.

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1. When the director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may fine such user in an amount not to exceed twenty-five thousand (\$25,000) dollars. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.
 2. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent according to the provisions of the City of Newport Codified Ordinances. The city reserves the right to impose a lien against the user's property for unpaid charges, fines, and penalties.
 3. Users desiring to dispute such fines must file a written request for the director to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the director may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
 4. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.
- G. Emergency Suspensions. The director may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The director may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the NWPCF, or which presents, or may present, an endangerment to the environment.
1. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the NWPCF, its receiving stream, or endangerment to any individuals. The director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless the termination proceedings in Section 13.10.120H are initiated against the user.
 2. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director prior to the date of any show cause or termination hearing under Sections 13.10.120C or 13.10.120H.
- Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.
- H. Termination of Discharge. In addition to the provisions in Section 13.10.070F, any user who violates the following conditions is subject to discharge termination:
1. Violation of wastewater discharge permit conditions;
 2. Failure to accurately report the wastewater constituents and characteristics of its discharge;
 3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
 4. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

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5. Violation of the pretreatment standards in Section 13.10.040

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 13.10.120C why the proposed action should not be taken. Exercise of this option by the director shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. 2000-22 § 1, 2000)

13.10.130. Judicial enforcement remedies.

- A. Injunctive Relief. When the director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director may petition the Newport municipal court through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.
- B. Civil Penalties.
1. A user who has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of not less than twenty-five thousand dollars (\$25,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
 2. The director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.
 3. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
 4. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.
- C. Criminal Prosecution.
1. A user who willfully or negligently violates any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be punishable by a fine of not more than twenty-five thousand dollars (\$25,000.00) per violation, per day.
 2. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars (\$25,000.00) per violation.

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- D. Remedies Nonexclusive. The remedies provided for in this chapter are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user, to include injunctive relief for any violation, as well as initiate any appropriate action to recover damages, penalties and associated costs and attorney fees. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the director may take other action against any user when the circumstances warrant. Further, the director is empowered to take more than one enforcement action against any noncompliant user.

(Ord. 2000-22 § 1, 2000)

13.10.140. Supplemental enforcement action.

- A. Performance Bonds. The director may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the director to be necessary to achieve consistent compliance.
- B. Liability Insurance. The director may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the NWPCF caused by its discharge.
- C. Water Supply Severance. Whenever a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.
- D. Public Nuisances. A violation of any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the director. Any person(s) creating a public nuisance shall be subject to the provisions of this code governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

(Ord. 2000-22 § 1, 2000)

13.10.150. Affirmative defenses to discharge violations.

- A. Upset.
1. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
 2. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (A)(3) of this section are met.
 3. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and the user can identify the cause(s) of the upset;

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- b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- c. The user has submitted the following information to the director within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):
 - i. A description of the indirect discharge and cause of noncompliance;
 - ii. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - iii. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- 4. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- 5. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- 6. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.
- B. Prohibited Discharge Standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 13.10.040A or the specific prohibitions in Sections 13.10.040(B)(3) through 13.10.040(B)(17) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:
 - 1. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
 - 2. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its RIPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.
- C. Bypass.
 - 1. For the purposes of this section:
 - a. "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility; and
 - b. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
 - 2. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (c)(3) and (c)(4) of this section.

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3. a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the director, at least ten days before the date of the bypass, if possible.
- b. A user shall submit oral notice to the director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
4. a. Bypass is prohibited, and the director may take an enforcement action against a user for a bypass, unless:
 - i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - iii. The user submitted notices as required under paragraph (3) of this section.
- b. The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed in subsection (4)(a) of this section.

(Ord. 2000-22 § 1, 2000)

13.10.160. Wastewater treatment rates.

The following is the description of the industrial user categories and related fees:

**TABLE 1
Application Fees**

Category	Description	
1	Users requiring pretreatment.	\$652.00
2	Users having some toxic discharge requiring minimal or no pretreatment.	522.00
3	Users having nontoxic discharges in addition to sanitary waste flows.	391.00
4	Users utilizing toxic pollutants but not discharging to the Newport Water Pollution Control Facility.	261.00

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5	Users discharging sanitary waste flows only.	130.00
6 (R1)	Businesses serving food with a seating capacity of between 1 and 25 persons.	130.00
6 (R2)	Businesses serving food with a seating capacity of between 26 and 50 persons.	261.00
6 (R3)	Businesses serving food with a seating capacity of between 51 and 100 persons.	391.00
6 (R4)	Businesses serving food with a seating capacity of between 101 and 150 persons.	522.00
6 (R5)	Businesses serving food with a seating capacity of greater than 150 persons.	652.00
7	Waste hauled into the Newport Water Pollution Control Facility.	391.00

**TABLE 2
Annual Permit Fee**

Category	Description	
1	Users requiring pretreatment.	\$4,887.00
2	Users having some toxic discharge requiring minimal or no pretreatment.	3,845.00
3	Users having nontoxic discharges in addition to sanitary waste flows.	1,922.00
4	Users utilizing toxic pollutants but not discharging to the Newport Water Pollution Control Facility.	1,088.00
5	Users discharging sanitary waste flows only.	457.00
6 (R1)	Businesses serving food with a seating capacity of between 1 and 25 persons.	130.00
6 (R2)	Businesses serving food with a seating capacity of between 26 and 50 persons.	261.00
6 (R3)	Businesses serving food with a seating capacity of between 51 and 100 persons.	391.00

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6 (R4)	Businesses serving food with a seating capacity of between 101 and 150 persons.	\$522.00
6 (R5)	Businesses serving food with a seating capacity of greater than 150 persons.	652.00
7	Waste hauled into the Newport Water Pollution Control Facility.	391.00

**TABLE 3
Monitoring Fees**

Item	
Metals*	\$33.00
COD	30.00
Cyanide	60.00
BOD	33.00
TSS	20.00
Oil and Grease	66.00
pH	20.00
Equipment**	66.00
Sampling**	100.00
Analyses**	212.00

* Per Parameter

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** Per Event

TABLE 4
BOD and TSS Surcharges

Parameter	
BOD per lb	\$0.17
TSS per lb	0.06

(Ord. 2008-19 § 1, 2008; Ord. 2004-48 § 1, 2004)

(Ord. No. 2009-18, § 1, 6-24-2009; Ord. No. 2010-23, § 1, 6-23-2010)

13.10.170. Pretreatment charges and fees.

The city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

1. Fees for wastewater discharge permit applications including the cost of processing such applications;
2. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
3. Fees for reviewing and responding to accidental discharge procedures and construction;
4. Fees for filing appeals; and
5. Fees associated with any additional processing requirements of Industrial or high strength waste as deemed necessary by the director.
6. Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the city.

(Ord. 2000-22 § 1, 2000)