ORDINANCE NO. 800

AN ORDINANCE CREATING AND ADOPTING A NEW REXBURG CITY ORDINANCE ENTITLED "WASTEWATER ORDINANCE"; STATING THE PURPOSE OF THE ORDINANCE; DEFINING TERMS; CREATING OFFENSES AND PENALTIES FOR INDIVIDUALS, BUSINESS ESTABLISHMENTS, OR ANY OTHER ENTITIES VIOLATING THE ESTABLISHED REGULATIONS; PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT; PROVIDING A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

WHEREAS, the City Council for the City of Rexburg has determined that there is a significant need to monitor and regulate wastewater collection and handling; and

WHEREAS, State and Federal regulations recommend the implementation of such enforcement provisions; and

WHEREAS, the City desires to provide for the protection of its citizens and property and to protect the general public; and

WHEREAS, it appears to the Mayor and City Council of the City of Rexburg, Idaho, that a the following ordinance will be in the best interests of the public health, safety and welfare and will help to attain the foregoing objectives and will diminish the undesirable impact of inappropriate discharges into the system on the community and the citizens of the City of Rexburg;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF REXBURG, THAT THE FOLLOWING ATTACHED PAGES SHALL, AND HEREBY ARE ADOPTED AS AN ORDINANCE OF THE CITY OF REXBURG:

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this 19th day of November, 1997.

Nile L. Boyle

Nile L. Boyle, Mayor

ATTEST:

Rose Bagley

Rose Bagley, City Clerk

(Seal)

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CITY OF REXBURG MUNICIPAL PRETREATMENT CODE FOR EXISTING AND NEW SOURCES OF POLLUTION (HEALTH AND SANITATION)

SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Policy

The objectives of this ordinance are:

A. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;

B. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

C. To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;

D. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;

E. To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;

This ordinance shall apply to all users of the POTW. The ordinance authorizes the issuance of industrial wastewater discharge permits; authorizes 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.

1.2 Administration

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

1.3 Definitions

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

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

Applicable Pretreatment Standards. For any specified pollutant, City prohibitive standards, City specific pretreatment standards (local limits), State of Idaho pretreatment standards, or EPA's Categorical Pretreatment Standards (when effective), whichever standard is appropriate or most stringent.

Approval Authority. The Regional Administrator of EPA Region 10.

Authorized Representative of the User

(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 250 persons or having gross annual sales or expenditures exceeding $25 million (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 his/her 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 of Rexburg.

Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration milligrams per liter (mg/l).

Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

Categorical User. A user covered by one of EPA's Categorical Pretreatment Standards.

City. The City of Rexburg or the City Council of Rexburg.

Cooling Water/Non-Contact Cooling Water. Water used for cooling which does not come into direct contact with any raw

material, intermediate product, waste product, or finished product. Cooling water may be generated from any use, such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.
Color. The optical density at the visual wave length of maximum absorption, relative to distilled water. One-hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

Domestic User (Residential User). Any person who contributes, causes, or allows the contribution of wastewater into the City POTW that is of a similar volume and/or chemical make-up as that of a residential dwelling unit. Discharges from a residential dwelling unit typically include up to 100 gallons per capita per day, 0.2 pounds of BOD per capita, and 0.17 pounds of TSS per capita.

Environmental Protection Agency (EPA). The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

Existing Source. For a categorical industrial user, an "existing source" is 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.

Existing User. For noncategorical users an "existing user" is defined as any user which is discharging wastewater prior to the effective date of this ordinance or include a specific date such as the date the code will become effective.

Grab Sample. A sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.

Industrial Wastewater Discharge Permit(IWDP,Discharge permit) An authorization or equivalent control document issued by the City to the users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this ordinance.

Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.The

discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.

Interference. A discharge which alone or in conjunction with a discharge or discharges from other sources, either: (1) inhibits or disrupts the POTW, its treatment processes or operations; (2) inhibits or disrupts its sludge processes, use or disposal; or (3) is a cause of a violation of the City's NPDES 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 more stringent State or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), 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 SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Maximum Allowable Discharge Limit. The maximum concentration (or loading) 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.

Medical Wastes. 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.

New Source.

(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) above 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.

New User. A "new user" is not a "new-source" and is defined as a user that applies to the City for a new building permit or any person who occupies an existing building and plans to discharge wastewater to the City's collection system after the effective date of this ordinance or include a specific date such as the date the code will become effective. Any person that buys an existing facility that is discharging non-domestic wastewater will be considered an "existing user" if no significant changes are made in the manufacturing operation.

Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation).

Permittee: A person or user issued an industrial wastewater discharge permit.

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, or local governmental entities.

pH. A measure of the acidity or alkalinity of a substance, expressed in standard units.

Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor.

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

Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits established by the City/POTW.

Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Sections 2.1 (A) and (B) of this ordinance.

Publicly Owned Treatment Works (POTW). 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. The term also means the City.

Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.)

Sewer. Any pipe, conduit ditch, or other device used to collect and transport sewage from the generating source.

Shall, May. "Shall" is mandatory, "may" is permissive.

Significant Industrial User.

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

(a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown wastewater); or

(b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon a finding that a user meeting the criteria in Subsection two (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any applicable 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. Any discharge at a flow rate or concentration which could cause a violation of the discharge standards in Section 2.1 thru 2.4 of this ordinance or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

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. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snow melt.

Superintendent. The person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.

Total Suspended Solids. 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.

Toxic Pollutant. One of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by EPA under Section 307 (33 U.S.C. 1317) of the Act.

Treatment Plant Effluent. The discharge from the POTW into waters of the United States.

User or Industrial User. A source of indirect discharge. The source shall not include "domestic user" as defined herein.

Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

1.4 Abbreviations

The following abbreviations shall have the designated meanings:

- ASPP - Accidental Spill Prevention Plan
- BOD - Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand
- EPA - U.S. Environmental Protection Agency
- gpd - gallons per day
- L - liter
- LEL - Lower Explosive Limit
- mg - milligrams
- mg/l - milligrams per liter
- NPDES - National Pollutant Discharge Elimination System
- O&M - Operation and Maintenance
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act

- SIC - Standard Industrial Classifications
- SWDA - Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)
- TSS - Total Suspended Solids
- USC - United States Code

SECTION 2 - GENERAL REQUIREMENTS

2.1 Prohibited Discharge Standards

A. General Prohibitions: No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

B. Specific Prohibitions: No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, 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 9.0, or otherwise causing corrosive structural damage to the POTW or equipment;

(3) Solid or viscous substances which will cause obstruction of the flow in the POTW resulting in interference.

(4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(5) Wastewater having a temperature 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) unless the Approval Authority, upon the request of the POTW, approves alternate temperature limits;

(6) Petroleum oil, non-biodegradable 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 POTW in a quantity that may cause acute worker health and safety problems;

(8) Trucked or hauled pollutants, except at discharge points designated by the City.

(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 NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life;

(11) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the Superintendent 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, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Superintendent;

(13) Any sludges, screenings, or other residues from the pretreatment of industrial wastes or from industrial processes;

(14) Medical wastes, except as specifically authorized by the Superintendent;

(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 POTW;

(17) Any liquid, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion meter, at the point of discharge into the system (or at any point in the system), be more than five (5%) per cent nor any single reading over ten (10%) per cent of the lower explosive limit (LEL) of the meter.

(18) Grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(19) Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits.

(20) Any wastewater, which in the opinion of the Superintendent can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under special agreement by the Superintendent (except that no special waiver shall be given from categorical pretreatment standards).

(21) The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septage, or other wastewater unless said person has first obtained testing and approval as may be generally required by the City of Rexburg and paid all fees assessed for the privilege of said discharge.

(22) Any hazardous wastes as defined in rules published by the State of Idaho or in EPA rules 40 CFR Part 261.

(23) Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA)

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

2.2 Federal Categorical Pretreatment Standards

The National categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

2.3 State Requirements

State requirements and limitations on discharges to the POTW shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this ordinance or other applicable ordinance.

2.4 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 allowable discharge limits.

0.477 mg/l arsenic
0.26 mg/l cadmium
2.77 mg/l chromium
2.07 mg/l copper
0.33 mg/l cyanide
0.32 mg/l lead
0.011 mg/l mercury
3.98 mg/l nickel
125 mg/l oil and grease (petroleum and vegetable based)
0.35 mg/l silver
1.69 mg/l zinc
200 mg/l BOD
200 mg/l TSS PH > 5.0 to < 9.0

The above limits apply at the point where the wastewater is discharged to the POTW (end of the pipe). All concentrations for metallic substances are for "total" metal unless indicated

otherwise. The Superintendent may impose mass limitations in addition to (or in place of) the concentration-based limitations above. Where a user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply.

2.5 City's Right of Revision

The City reserves the right to establish, by ordinance or in industrial wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

2.6 Special Agreement

The City reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a categorical pretreatment standard or federal pretreatment requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from the Approval Authority in accordance with 40 CFR 403.13.

2.7 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 an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The Superintendent may impose mass limitations on users which he believes may be using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

2.8 Pretreatment Facilities

Users shall provide necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all applicable pretreatment standards and requirements set out in this ordinance within the time limitations specified by the EPA, the State, or the Superintendent, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the City under the provisions of this ordinance.

2.9 Deadline for Compliance with Applicable Pretreatment Requirements

Compliance by existing users (categorical users) covered by Categorical Pretreatment Standards shall be within 3 years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate Standard. The City shall establish a final compliance deadline date for any existing user not covered by Categorical Pretreatment Standards or for any categorical user when the local limits for said user are more restrictive than EPA's Categorical Pretreatment Standards.

New source dischargers and "new users" are required to comply with applicable pretreatment standards within the shortest feasible time (not to exceed 90 days from the beginning of discharge). New Sources and "new users" shall install and have in operating condition, and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

Any industrial wastewater discharge permit issued to a categorical user shall not contain a compliance date beyond any deadline date established in EPA's Categorical Pretreatment Standards. Any other existing user or a categorical user that must comply with a more stringent local limit, which is in non-compliance with any local limits shall be provided with a compliance schedule placed in an industrial wastewater discharge permit to insure compliance within the shortest time feasible.

2.10 Additional Pretreatment Measures

A. Whenever deemed necessary,the Superintendent 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 POTW and determine the user's compliance with the requirements of this ordinance.

B. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Superintendent and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at his expense.

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

2.11 Accidental Discharge/Slug Control Plans

The Superintendent may require any user to develop and implement an accidental discharge/slug control plan. Where deemed necessary by the City, facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the user's cost and expense. An accidental spill prevention plan/slug control plan showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval before implementation. The City shall determine which user is required to develop a plan and require said plan to be submitted within 90 days after notification by the City. Each user shall implement its ASPP as submitted or as modified after such plan has been reviewed and approved by the City. Review and approval of such plans and operating procedures by the City shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of Section.

A. Any user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the standards in Sections 2.1 thru 2-4 of this ordinance; 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.

B. Users shall notify the City Wastewater Treatment Plant immediately upon the occurrence of a "slug" or "accidental discharge" of substances regulated by this Ordinance. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected user shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the City on account thereof under state or federal law.

C. Within five (5) days following an accidental discharge, the user shall submit to the Superintendent a detailed written report describing the cause 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 POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this Ordinance or other applicable law.

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

2.12 Septic Tank Wastes

A. Septic tank waste may be introduced into the POTW only at a designated receiving structure within the treatment plant area, and at such times as are established by the Superintendent. Such wastes shall not violate this Section of the ordinance or any other requirements established or adopted by the City. Industrial wastewater discharge permits for individual vehicles to use such facilities shall be issued by the Superintendent.

B. Septage haulers may only discharge loads at locations specifically designated by the Superintendent. No load may be discharged without prior consent of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with applicable pretreatment standards. The Superintendent may require the hauler to provide a waste analysis of any load prior to discharge.

C. Septage haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, sources of waste, and volume and characteristics of waste.

D. Fees for dumping hauled wastes to the City are $ 10.00 per 1000 gallons dumped there will be a sample collected prior to dumping any wastes into the septic dump station. The dump station must be cleaned after each dump or a fee of $ 20.00 will be added to the charge.

SECTION 3 - INDUSTRIAL WASTEWATER DISCHARGE PERMIT REQUIREMENTS

No significant industrial user shall discharge wastewater into the POTW without first obtaining an industrial wastewater discharge permit (IWDP) from the Superintendent. Any violation of the terms and conditions of an IWDP shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in this ordinance. Obtaining

an industrial 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.

The Superintendent may require other users, including liquid waste haulers, to obtain an IWDP (as necessary) to carry out the purposes of this ordinance.

3.1 Industrial Wastewater Discharge Permitting: Existing SIU

Any SIU that was discharging wastewater into the POTW prior to the effective date of this ordinance and that wishes to continue such discharges in the future shall, within 60 days after notification by the Superintendent submit a data disclosure form to the City in accordance with Section 3.4 of this ordinance. And shall not cause or allow discharges to the POTW to continue after 3 months (180) days of the effective date of this ordinance except in accordance with an industrial wastewater discharge permit issued by the Superintendent. **The city's notification to SIUs covered by categorical pretreatment standards will be in ample time to insure that the SIUs complies with the 180 day submittal deadline date established in 40 CFR §403.12 (b).**

3.2 Industrial Wastewater Discharge Permitting: New Source and "New User"

At least 90 days prior to the anticipated start-up, new sources, sources that become a user subsequent to the promulgation of an applicable categorical pretreatment standard, and "new users" considered by the City to fit the definition of SIU, shall apply for an IWDP and will be required to submit to the City at least the information listed in paragraphs (A)-(E) of Section 3.4. A new source or "new user" cannot discharge without first receiving an industrial wastewater discharge permit from the City. New sources and "new users" shall also be required to include in their data disclosure form information on the method of pretreatment the user intends to use to meet applicable pretreatment standards. New Sources and "new users" shall give estimates of the information requested in paragraphs (D) and (E) of Section 3.4.

3.3 Wastewater Discharge Permitting: Extrajurisdictional Users

Any existing user located beyond the City limits required to obtain an industrial wastewater discharge permit shall submit a wastewater discharge permit application as outlined in Section 3.1. New Source and "new users" located beyond the City limits required to obtain a wastewater discharge permit shall comply with Section 3.2.

3.4 Data Disclosure Form Contents

All users required to obtain an industrial wastewater discharge permit must submit, at a minimum, the following information. The Superintendent shall approve a form to be used as a data disclosure form. Categorical users submitting the following information shall have complied with 40 CFR 403.12 (b).

A. Identifying information. The user shall submit the name and address of the facility including the name of the operator and owners;

B. Permits. The user shall submit a list of any environmental control permits held by or for the facility;

C. Description of operations. The user shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such Industrial User, 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 POTW; number and type of employees; hours of operation; each product produced by type, amount, process or processes, and rate of production; type and amount of raw materials processed (average and maximum per day) and the time and duration of discharges. This description should also include a schematic process diagram which indicates points of discharge to the POTW from the regulated or manufacturing processes. Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtances by size, location and elevation.

D. Flow Measurement.

(1) Categorical User:

The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

(i) Regulated or manufacturing process streams; and

(ii) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e).

(2) Non-Categorical User

The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

(i) Total process flow, wastewater treatment plant flow, total plant flow or individual manufacturing process flow as required by the Superintendent.

The City may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

E. Measurements of pollutants.

(1) Categorical User:

(i) The user shall identify the applicable pretreatment standards for each regulated or manufacturing process.

(ii) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass) where required by the Categorical Pretreatment Standard or as required by the City of regulated pollutants (including standards contained in Sections 2.1 through 2.4, as appropriate) in the discharge from each regulated or manufacturing process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Section 5.

(iii) shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

(iv) Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) for a categorical user covered by a categorical pretreatment standard this adjusted limit along with supporting data shall be submitted as part of the data disclosure form.

(2) Non-Categorical User

(i) The user shall identify the applicable pretreatment standards for its wastewater discharge.

(ii) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by the City) of regulated pollutants contained in Sections 2.1 through 2.4, as appropriate in the discharge. Both daily maximum and average concentration (or mass, where required) shall be reported.The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Section 5.

(iii)The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

(iv) Where the Superintendent developed alternate concentration or mass limits because of dilution this adjusted limit along with supporting data shall be submitted as part of the data disclosure form.

F. Certification. A statement, reviewed by an authorized representative of the user and certified by a qualified professional as outlined in Section 3.5, indicating whether the applicable 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 for the user to meet the applicable Pretreatment Standards and Requirements;

G. Compliance Schedule. If additional pretreatment and/or O and M will be required to meet the applicable Pretreatment Standards; the shortest schedule by which the user will provide such additional pretreatment and/or O and M. The user's schedule shall conform with the requirements of Section 4.4. The completion date in this schedule shall not be later than the compliance date established pursuant to Section 2.9 of this Ordinance.

(1) Where the user's categorical Pretreatment Standard has been modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR 403.13) at the time the user submits the report required by this paragraph, the information required by paragraphs (F) and (G) of this section shall pertain to the modified limits.

(2) If the categorical Pretreatment Standard is modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR 403.13) after the user submits the report required by paragraphs (F) and (G) of this section shall be submitted by the user within 60 days after the modified limit is approved.

H. Any other information as may be deemed necessary by the Superintendent to evaluate the data disclosure form.

Incomplete or inaccurate data disclosure forms will not be processed and will be returned to the user for revision.

3.5 Signatory and Certification Requirement

All data disclosure forms 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."

3.6 Industrial Wastewater Discharge Permit Decisions

The Superintendent will evaluate the data furnished by the user and may require additional information. Within 1 month 30 days of receipt of a complete data disclosure form, the Superintendent will determine whether or not to issue an industrial wastewater discharge permit. Upon a determination to issue, the permit shall be issued within 30 days of full evaluation and acceptance of the data furnished. The

Superintendent may deny any data disclosure form for an industrial wastewater discharge permit.

3.7 Industrial Wastewater Discharge Permit Contents

Industrial wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Superintendent 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 POTW.

A. Industrial wastewater discharge permits must contain the following conditions:

(1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

(2) A statement that the wastewater discharge permit is non-transferable without prior notification to [and approval from the City, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Applicable pretreatment standards and requirements, including any special State requirements;

(4) Self monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, 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

(5) Requirement for immediate notification to the City where self-monitoring results indicate non-compliance;

(6) Requirement to report a by-pass or upset of a pretreatment facility;

(7) Requirement for the SIU who reports non-compliance to repeat the sampling and analysis and submit results to the City within 30 days after becoming aware of the violation.

(8) A statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule.

B. Industrial wastewater discharge permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

(7) A statement that compliance with the industrial 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;

(8) Any special agreements the Superintendent chooses to continue or develop between the City and user;

(9) Other conditions as deemed appropriate by the Superintendent to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

3.8 Industrial Wastewater Discharge Permit Appeals

Any person, including the user, may petition the City to reconsider the terms of an industrial wastewater discharge permit within 1 month (30) days of its issuance.

A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

B. In its petition, the appealing party must indicate the industrial wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the industrial wastewater discharge permit.

C. The effectiveness of the industrial wastewater discharge permit shall not be stayed pending the appeal.

D. If the City fails to act within 2 months (60) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an industrial wastewater discharge permit, not to issue an industrial wastewater discharge permit, or not to modify an industrial wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.

E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the **Madison County 7th judicial district** for jurisdiction within **Madison counties and Sugar City, due to the multi-jurisdictional agreement.**

3.9 Industrial Wastewater Discharge Permit Duration

Industrial wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. An industrial wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Superintendent. Each industrial wastewater discharge permit will indicate a specific date upon which it will expire.

3.10 Industrial Wastewater Discharge Permit Modification

The Superintendent may modify the industrial wastewater discharge permit for good cause including, but not limited to, the following:

A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the industrial wastewater discharge permit issuance;

C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

D. Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters;

E. Violation of any terms or conditions of the industrial wastewater discharge permit;

F. Misrepresentations or failure to fully disclose all relevant facts in the data disclosure form or in any required reporting;

G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

H. To correct typographical or other errors in the industrial wastewater discharge permit; or

I. To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

3.11 Industrial Wastewater Discharge Permit Transfer

Industrial wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least 1 month (30) days advance notice to the Superintendent and the Superintendent approves the industrial wastewater discharge permit transfer. The notice to the Superintendent must include a written certification by the new owner and/or operator which:

A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

B. Identifies the specific date on which the transfer is to occur; and

C. Acknowledges full responsibility for complying with the existing industrial wastewater discharge permit.

Failure to provide advance notice of a transfer renders the industrial wastewater discharge permit voidable as of the date of facility transfer.

Provided that the above occurs and that there were no significant changes to the manufacturing operation or wastewater discharge, the new owner will be considered an existing user and

be covered by the existing limits and requirements in the previous owner's permit.

3.12 Industrial Wastewater Discharge Permit Revocation

Industrial wastewater discharge permits may be revoked for, but not limited to, the following reasons:

A. Failure to notify the City of significant changes to the wastewater prior to the changed discharge;

B. Failure to provide prior notification to the City of changed conditions;

C. Misrepresentation or failure to fully disclose all relevant facts in the data disclosure form;

D. Falsifying self-monitoring reports;

E. Tampering with monitoring equipment;

F. Refusing to allow the City timely access to the facility premises and records;

G. Failure to meet discharge limitations;

H. Failure to pay fines;

I. Failure to pay sewer charges;

J. Failure to meet compliance schedules;

K. Failure to complete a wastewater survey or the data disclosure form;

L. Failure to provide advance notice of the transfer of a permitted facility; or

M. If the City has to invoke its emergency provision as cited in Section 9.7 of the Ordinance.

N. Violation of any pretreatment standard or requirement, or any terms of the industrial wastewater discharge permit or this ordinance.

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

3.13 Industrial Wastewater Discharge Permit Reissuance

A user, required to have an industrial wastewater discharge permit, shall apply for an industrial wastewater discharge permit reissuance by submitting a complete data disclosure form, in accordance with Section 3.4 of this ordinance, a minimum of 3 months (180) days prior to the expiration of the user's existing wastewater discharge permit. A user, whose existing industrial wastewater discharge permit has expired and has submitted its re-application in the time period specified herein, shall be deemed to have an effective industrial wastewater discharge permit until the City issues or denies the new industrial wastewater discharge permit. A user, whose existing industrial wastewater discharge permit has expired and who failed to submit its re-application in

the time period specified herein, will be deemed to be discharging without an industrial wastewater discharge permit.

SECTION 4 - REPORTING REQUIREMENTS

4.1 Baseline Monitoring Reports

A. Within either one hundred and 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 POTW, shall be required to submit to the City a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the City a report which contains the information listed in paragraph B, below.

A new source shall also be required to report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

B. Users described above shall submit the information set forth below.

(1) Identifying Information. The name and address of the facility, including the name of the operator and owner.

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) 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 POTW from the regulated processes.

(4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW 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).

(5) Measurement of Pollutants.

(a) The categorical pretreatment standards applicable to each regulated process.

(b) The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the City) 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 Section 5 of this ordinance.

(c) Sampling must be performed in accordance with procedures set out in Section 5 of this ordinance.

(6) 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&M) and/or additional pretreatment, is required to meet the pretreatment standards and requirements.

(7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&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 Section 4.4 of this ordinance.

(8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 3.5 of this ordinance.

4.2 Final Compliance report (Initial Compliance Report)

A. Within 90 days following the date for final compliance by the Significant Industrial User with applicable pretreatment standards and requirements set forth in this ordinance, in a wastewater discharge permit, or within 30 days following commencement of the introduction of wastewater into the POTW by a new source or "new users" considered by the City to fit the definition of SIU, the affected user shall submit to the City a report containing the information outlined in Paragraph (D)-(F) of Section 3.4.

B. For users subject to equivalent mass or concentration limits established by the City in accordance with procedures established 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 users's actual production during the appropriate sampling period.

4.3 Periodic Compliance Report

A. Any user that is required to have an industrial waste water discharge permit and performs self-monitoring shall submit to the City during the months of June and December, unless required on other dates or more frequently by the City, a report indicating the nature of the effluent over the previous reporting period. The frequency of monitoring shall be as prescribed within the industrial waste water discharge permit. At a

minimum, users shall sample their discharge at least twice per year.

B. The report shall include a record of the concentrations (and mass if specified in the wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations, and shall also include any additional information required by this ordinance or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported. If a user sampled and analyzed more frequently than what was required by the City or by this ordinance, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge during the reporting period.

C. Any user subject to equivalent mass or concentration limits established by the City or by unit production limits specified in the applicable categorical standards, shall report production data as outlined in Section 4.2 (B).

D. If the City calculated limits to factor out dilution flows or non-regulated flows, the user will be responsible for providing flows from the regulated process flows, dilution flows and non-regulated flows.

E. Flows shall be reported on the basis of actual measurement; provided, however, that the City may accept reports of average and maximum flows estimated by verifiable techniques if the City determines that an actual measurement is not feasible.

F. Sampling shall be representative of the user's daily operations and shall be taken in accordance with the requirements specified in Section 5.

G. The City may require reporting by users that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent or determine any other factor which is related to the operation and maintenance of the sewer system.

H. The City may require self-monitoring by the user or, if requested by the user, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this section. If the City agrees to perform such periodic compliance monitoring, it may charge the user for such monitoring, based upon the costs incurred by the City for the sampling and analyses. Any such charges shall be added to the normal sewer charge and shall be payable as part of the sewer bills. The City is under no obligation to perform periodic compliance monitoring for a user.

4.4 Compliance schedules for meeting applicable pretreatment standards

A. The schedule shall contain increments of progress 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 (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

B. No increment referred to in paragraph (A) of this section shall exceed 9 months.

C. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the City including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports.

4.5 Notification of Significant Production Changes

Any user operating under a wastewater discharge permit incorporating equivalent mass or concentration limits shall notify the City within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not providing a notice of such anticipated change will be required to comply with the existing limits contained in its wastewater discharge permit.

4.6 Hazardous Waste Notification

Any user that is discharging 15 kilograms of hazardous wastes as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) is required provide a one time notification in writing to the City, EPA Regional 10 Waste Management Division Director, Idaho state Hazardous Waste Division. Any existing user exempt from this notification, shall comply with the requirements contained herein within 30 days of becoming aware of a discharge of 15 kilograms of hazardous wastes in a calendar month or the discharge of acutely hazardous wastes to the City sewer system. Such notification shall include:

A. The name of the hazardous waste as set forth in 40 CFR Part 261,

B. The EPA Hazardous waste number; and

C. The type of discharge (continuous, batch, or other).

D. If an industrial user discharges more than 100 kilograms of such waste per calendar per month to the sewer system, the notification shall also contain the following information to the extent it is known or readily available to the industrial user:

(1) an identification of the hazardous constituents contained in the wastes,
(2) an estimation of the mass and concentration of such constituents in the waste streams discharged during that calendar month, and
(3) an estimation of the mass of constituents in the waste streams expected to be discharged during the following 12 months.

These notification requirements do not apply to pollutants already reported under the self-monitoring requirements.

Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a user shall notify the City of the discharge of such a substance within 90 days of the effective date of such regulations.

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

4.7 Notice of potential problems, including accidental spills, slug loadings

Any user shall notify the City immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined in Section 1.3. The notification shall include the concentration and volume and corrective action. Steps being taken to reduce any adverse impact should also be noted during the notification. Any user who discharges a "slug" (or slugs) of pollutants shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the City under state or federal law.

4.8 Non-Compliance Reporting

If sampling performed by a user indicates a violation, the user shall notify the City within 24 hours of becoming aware of the violation. The user shall also repeat the sampling within 5 days and submit the results of the repeat analysis to the City within 30 days after becoming aware of the violation, except the user is not required to resample if:

A. The City performs sampling at the user at a frequency of at least once per month, or

B. The City performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

4.9 Notification of changed discharge

All users shall promptly notify the City in advance of any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, and the listed or

characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12 (p).

4.10 TTO Reporting.

Categorical users which are required by EPA to eliminate and/or reduce the levels of toxic organics (TTO's) discharged into the sewer system must follow the Categorical Pretreatment Standards for that industry. Those users must also meet the following requirements:

A. Must sample, as part of the application requirements, for all the organics listed under the TTO limit (no exceptions);

B. No TTO's Used at the Facility or the user elects to develop a solvent management plan in lieu of continuously monitoring for TTO:

The user must routinely submit a certification statement as part of its self-monitoring report that there has been no dumping of concentrated toxic organic into the wastewater and that it is implementing a solvent management plan as approved by the City.

4.11 Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the City as the Superintendent may require.

4.12 Record Keeping

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

SECTION 5 - SAMPLING AND ANALYTICAL REQUIREMENTS

5.1 Sampling Requirements for Users.

A. A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. The Superintendent will determine on a case-by-case whether the user will be able to composite the individual grab samples. For all other

pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The City may waive flow-proportional composite sampling for any user that demonstrates that flow-proportional is infeasible.

In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

B. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the City and contained in the user's industrial wastewater discharge permit. For categorical users, if other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the Applicable Categorical Pretreatment Standards. For other SIUs, for which the City has adjusted its local limits to factor out dilution flows, the user should measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standard(s).

C. All sample results shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges from the user. <u>If a user sampled and analyzed more frequently than what was required in its Industrial wastewater discharge permit, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge as part of its self-monitoring report</u>.

5.2 <u>Analytical Requirements</u>

All pollutant analyses, including sampling techniques, 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 the EPA.

5.3 <u>City Monitoring of User's Wastewater</u>

The City will follow the same procedures as outlined in Sections 5.1 and 5.2.

SECTION 6 - COMPLIANCE MONITORING

6.1 Inspection and Sampling

The City shall have the right to enter the facilities of any user to ascertain whether the purpose of this ordinance, and any wastewater discharge permit or order issued hereunder, is being met and whether the user is complying with all requirements thereof. Users shall allow the Superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Superintendent will be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The Superintendent 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.

C. 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 Superintendent and shall not be replaced. The costs of clearing such access shall be born by the user.

D. Unreasonable delays in allowing the Superintendent access to the user's premises shall be a violation of this ordinance.

6.2 Monitoring Facilities

Each user shall provide and operate at its own expense a monitoring facility to allow inspection, sampling, and flow measurements of each sewer discharge to the City. Each monitoring facility shall be situated on the user's premises, except where such a location would be impractical or cause undue hardship on the user, the City may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. The Superintendent, whenever applicable, may require the construction and maintenance of sampling facilities at other locations (for example, at the end of a manufacturing line, for a wastewater treatment system).

There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications.

The Superintendent may require the user to install monitoring equipment as necessary. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

6.3 Search Warrants

If the Superintendent has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect as part of a routine inspection program of the City designed to verify compliance with this ordinance or any industrial wastewater discharge permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Superintendent shall seek issuance of a search and/or seizure warrant from the **Madison County 7th judicial courthouse of Rexburg**. Such warrant shall be served at reasonable hours by the Superintendent in the company of a uniformed police officer for the City of Rexburg.

6.4 Vandalism

No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in this ordinance.

SECTION 7 - CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, surveys,data disclosure forms, industrial wastewater discharge permits, and monitoring programs, and from City inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the City, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

SECTION 8 - PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE

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

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six-(6-)month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-)month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH;

C. Any other discharge violation that the City believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public);

D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within 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;

G. Failure to accurately report non-compliance; or

H. Any other violation(s) which the City determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 9 - ADMINISTRATIVE ENFORCEMENT REMEDIES

9.1 Notification of Violation

When the Superintendent finds that a user has violated (or continues to violate) any provision of this ordinance, an Industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may serve upon that user a written Notice of Violation via certified letter. Within 5 working 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 Superintendent. 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 City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

9.2 Consent Orders

The Superintendent may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for non-compliance. Such documents will include specific action to be taken by the user to correct the non-compliance 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 9.4 and 9.5 of this ordinance and shall be judicially enforceable. Use of a consent Order shall not be a bar against, or prerequisite for, taking any other action against the user.

9.3 Show Cause Hearing

The Superintendent may order via a certified letter a user which 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, to appear before the Superintendent 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 5 working 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.

9.4 Compliance Orders

When the Superintendent finds that a user has violated or continues to violate any provision of this ordinance, industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may issue an order to the user responsible for the discharge directing that the user come into compliance within a time specified in the order. If the user does not come into compliance within the time specified in the order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address

the non-compliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

9.5 Cease and Desist Orders

When the Superintendent 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, or that the user's past violations are likely to recur, the Superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

A. Immediately comply with all requirements; and

B. Take such appropriate remedial or 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 aprerequisite for, taking any other action against the user.

9.6 Administrative Fines

A. When the Superintendent finds that a user has violated or continues to violate any provision of this ordinance, or Industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may fine such user an amount of at least **$250.00 per day and not more than $1000.00 per day per violation**. 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.

B. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

9.7 Emergency Suspensions

The Superintendent 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 Superintendent may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply

voluntarily with the suspension order, the Superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed, unless the termination proceedings in Section 9.8 of this ordinance are initiated against the user.

B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Superintendent prior to the date of any show cause or termination hearing under Sections 9.3 and 9.8 of this ordinance.

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

9.8 <u>Termination of Discharge (Non-Emergency)</u>

In addition to the provisions in Section 3.12 of this ordinance, any user that violates the following conditions is subject to discharge termination:

A. Violation of an Industrial wastewater discharge permit conditions;

B. Failure to accurately report the wastewater constituents and characteristics of its discharge;

C. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;

D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or

E. Violation of the pretreatment standards in Section 2 of this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 9.3 of this ordinance why the proposed action should not be taken. Exercise of this option by the City shall not be a bar to, or a prerequisite for, taking any other action against the user.

SECTION 10 - JUDICIAL ENFORCEMENT REMEDIES

10.1 Injunctive Relief

When the Superintendent 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 Superintendent may petition the **Madison county 7th judicial courthouse** 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 Industrial wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. The City 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.

10.2 Civil Penalties

A. A user which 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 shall be liable to the City for a civil penalty of at least **$250.00 per day, per violation,and shall not exceed $1000.00** per day, per violation. 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.

B. The Superintendent 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.

C. 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, 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.

D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

10.3 Criminal Prosecution

A. A user which has willfully or negligently violated any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of at least **$250.00 per day, per violation not to exceed $1000.00** per day,per violation or imprisonment.

B. A user which has willfully or negligently introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least

$250.00 per day, per violation not to exceed $1000.00 per day per violation, and/or be subject to imprisonment. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

C. A user which knowingly made any false statements, representations, or certifications in any data disclosure form, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than **$1000.00** per violation per day, or imprisonment, or both.

D. In the event of a second conviction, a user shall be punished by a fine of not more than $1000.00 per day, per violation, or imprisonment.

10.4 Remedies Non-exclusive

The provisions in Sections 8 through 11 of this ordinance are not exclusive remedies. The City reserves the right to take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City reserves the right to take other action against any user when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

SECTION 11 - SUPPLEMENTAL ENFORCEMENT ACTION

11.1 Performance Bonds

The Superintendent may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this ordinance, 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 Superintendent to be necessary to achieve consistent compliance.

11.2 Liability Insurance

The Superintendent may decline to issue or reissue an industrial wastewater discharge permit to any user which has failed to comply with any provision of this ordinance, a previous industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

11.3 Water Supply Severance

Whenever a user has violated or continues to violate any provision of this ordinance, or industrial 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.

11.4 Contractor Listing

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

SECTION 12 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

12.1 Upset

A. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary non-compliance with applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities,lack of preventive maintenance, or careless or improper operation.

B. An upset shall constitute an affirmative defense to an action brought for non-compliance with applicable pretreatment standards if the requirements of paragraph (C) are met.

C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the user can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(3) The user has submitted the following information to the POTW and treatment plant operator within twenty four (24) hours of becoming aware of the upset if this information is provided orally, a written submission must be provided within five (5) days:

(a) A description of the indirect discharge and cause of non-compliance;
(b) The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and

(c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compl

D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

E. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with applicable pretreatment standards.

F. Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

12.2 Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for non-compliance with the prohibitions in Section 2.1 A and B(3) through (7) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(b) no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

12.3 Bypass

A. For the purposes of this section,

(1) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

B. A user may allow any bypass to occur which does not cause applicable 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 paragraphs (C) and (D) of this section.

C. (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least ten (10) days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the City of an unanticipated bypass that exceeds applicable pretreatment standards within twenty four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain 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 POTW may waive the written report on a case-by-case basis if the oral report has been received within twenty four (24) hours.

D. (1) Bypass is prohibited, and the POTW may take an enforcement action against a user for a bypass, unless

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The user submitted notices as required under paragraph (C) of this section.

(2) The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

SECTION 13 - MISCELLANEOUS PROVISIONS

13.1 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:

A. The Industrial users will be responsible for paying for it's own facility's heavy metals testing ,and shipping.

B. Fees for a data disclosure form including the cost of processing such applications;

C. 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;

D. Fees for reviewing and responding to accidental discharge procedures and construction;

E. Fees for filing appeals; and

F. 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 ordinance and are separate from all other fees, fines, and penalties chargeable by the City.

13.2 Severability

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

13.3 Conflicts

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance, are hereby repealed to the extent of the inconsistency or conflict.

13.4 SURCHARGE ON EXCESSIVE STRENGTH DISCHARGE

Ordinance #772 on excessive strength discharge for BOD's in excess of 200 mg/l, and TSS in excess of 200 mg/l will be charged a fee of ($0.36 per pound BOD) and ($0.18 per pound TSS). Formula example as follows:

EXAMPLE:

A wastewater flow of 10,000 gallons/day having 800 mg/l of BOD, The "EXCESSIVE STRENGTH" quantity of BOD would be: 10,000 gal/day x (800 mg/l - 200 mg/l (i.e., the assumed "normal quantity" of BOD discharged) x 30 days (number of days

represented by the test sample) x 8.34 lbs/gal divided by 1,000,000 gal.) = 1501 lbs. of BOD. The "surcharge for Excessive Strength" for BOD would be 1501 lbs of BOD x $ 0.36/lb. (The assumed rate per pound for "Excessive Strength" BOD) = $ 600.40.

SECTION 14 - EFFECTIVE DATE

This ordinance shall be in full force and effect immediately following its passage, approval and publication, as provided by law.

PASSED this 19th day of November, 1997.
AYES: Kay Beck, Marsha Bjornn, Farrell Young, Nyle Fullmer, Bruce Sutherland
NAYS: None
ABSENT: Glen Pond
NOT VOTING: None
APPROVED by me this 19th day of November, 1997.

Nile L. Boyle
City of Rexburg Mayor

ATTEST: Rose Bagley
City Clerk

STATE OF IDAHO)
)ss.
County of Madison)

I, **ROSE BAGLEY,** City Clerk of the City of Rexburg, Idaho, do hereby certify: That the above and foregoing is a full, true and correct copy of the Ordinance entitled:

AN ORDINANCE REPEALING AND REPLACING REXBURG CITY ORDINANCE NO. 789, AND ADOPTING A NEW ORDINANCE ENTITLED "JUVENILE CURFEW"; STATING THE PURPOSE OF THE ORDINANCE; DEFINING TERMS; CREATING OFFENSES FOR MINORS, PARENTS AND GUARDIANS OF MINORS AND FOR BUSINESS ESTABLISHMENTS VIOLATING CURFEW REGULATIONS; PROVIDING DEFENSES; PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING A SEVERABILITY CLAUSE AND PROVIDING FOR; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

Passed by the City Council and **approved by the Mayor** this 19th day of November, 1997.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City of Rexburg, Idaho, this 19th day of November, 1997.

Rose Bagley
City Clerk

(Seal)