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Return to:

Clean Water Services
Mail Stop 10
2550 SW Hillsboro Highway
Hillsboro, OR 97123



02689747202001288770550551

I, Margaret Garza, Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.



Margaret Garza, Director of Assessment and Taxation,
Ex-Officio County Clerk

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NOV 10 2020

1 IN THE BOARD OF DIRECTORS
2 FOR CLEAN WATER SERVICES

WASHINGTON COUNTY
BOARD OF COMMISSIONERS OFFICE

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6 ORDINANCE 42

(An Ordinance Prescribing Rules Governing the
(Discharge of Nondomestic Waste to the Publicly
(Owned Treatment Works of Clean Water Services;
(Amending Ordinance 27 and Repealing Resolution
(and Order 09-01

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8
9
10 The Board of Directors of Clean Water Services ordains:

11 SECTION 1. TABLE OF CONTENTS; PURPOSE AND FINDINGS

12 a. TABLE OF CONTENTS

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1 b. PURPOSE AND FINDINGS

- 2 1. The purpose of this Ordinance is to provide rules governing the discharge of
3 nondomestic waste to the Publicly Owned Treatment Works (POTW) within the
4 jurisdiction of Clean Water Services (District).
- 5 2. The District was duly established pursuant to ORS Chapter 451, and has the authority
6 to construct, maintain and operate sewerage works including all facilities necessary
7 for collecting, pumping, treating and disposing of sanitary or storm sewage and to
8 provide storm and surface water drainage services and facilities. In order to enhance
9 and maintain the water quality of the Tualatin River and its tributaries within and
10 without the District, to meet state and federal permit and regulatory requirements, and
11 to promote the health, safety and welfare of the community, this Board of Directors
12 (Board) deems it necessary to provide rules governing the discharge of nondomestic
13 waste to the POTW within the jurisdiction of the District.
- 14 3. The Board intends that this Ordinance be broadly interpreted to accomplish the
15 objectives of protecting the health and safety of the public, preventing pollution of
16 waters of the State, and furthering the objectives and purposes of the Federal Water
17 Pollution Control Act, 33 U.S. Code §1251-1388
- 18 4. The District will administer, implement, and enforce the provisions of this Ordinance.
19 Any powers granted to or duties imposed upon the District may be carried out by any
20 duly authorized District employee or contractor.

21 SECTION 2. SCOPE AND APPLICABILITY

- 22 a. This Ordinance sets forth uniform requirements for discharges of nondomestic waste to
23 the POTW and enables the District to comply with all applicable state and federal laws,
24 including the Federal Water Pollution Control Act, 33 U. S. Code §1251-1388 and the
25 General Pretreatment Regulations contained in Title 40 of the *Code of Federal*
26 *Regulations* (CFR) Part 403 and Oregon Administrative Rules (OAR) Chapter 340
27 pertaining to industrial pretreatment and biosolids. The objectives of this Ordinance are:
28 1. To prevent the introduction of substances into the POTW that will interfere with its
29 operation;

- 1 2. To prevent the introduction of substances into the POTW that will pass through the
2 system, inadequately treated, into receiving waters or the atmosphere or otherwise
3 will be incompatible with the POTW;
- 4 3. To ensure that the quality of the District's wastewater treatment plant biosolids is
5 maintained at a level that allows their beneficial reuse;
- 6 4. To protect District, City, and other authorized personnel who may come into contact
7 with sewage, biosolids, and effluent in the course of their employment as well as
8 protecting the general public;
- 9 5. To preserve the hydraulic capacity of the POTW;
- 10 6. To provide for equitable distribution of the cost of operation, maintenance and
11 improvements of the District wastewater system; and
- 12 7. To ensure the District is able to comply with its National Pollutant Discharge
13 Elimination System (NPDES) permit conditions, recycled water, biosolids use and
14 disposal requirements, and any federal or state laws to which the District is subject.

15 SECTION 3. DEFINITIONS

16 The terms below have the defined meanings given when used in this Ordinance and District
17 Rules, unless expressly defined otherwise. All other terms used in this Ordinance and District
18 Rules have their ordinary or technical meaning. Any definition herein that is in conflict with a
19 definition in any other District Rule supersedes the other definition when applied to matters
20 involving nondomestic wastes.

- 21 a. Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean
22 Water Act, as amended, 33 U.S. Code §1251-1388
- 23 b. Authorized representative.
 - 24 1. If the principal is a corporation:
 - 25 A. The president, secretary, treasurer, or a vice president of the corporation in charge
26 of a principal business function, or any other person who performs similar policy-
27 or decision-making functions for the corporation; or
 - 28 B. The manager of one or more manufacturing, production, or operating facilities,
29 provided the manager is authorized to make management decisions that govern
30 the operation of the regulated facility including having the explicit or implicit
31 duty of making major capital investment recommendations, and initiate and direct

1 other comprehensive measures to ensure long-term environmental compliance
2 with environmental laws and regulations; can ensure that the necessary systems
3 are established or actions taken to gather complete and accurate information for
4 individual wastewater discharge permit requirements; and where authority to sign
5 documents has been assigned or delegated to the manager in accordance with
6 corporate procedures.

7 2. If the principal is a partnership or sole proprietorship: a general partner or proprietor,
8 respectively.

9 3. If the principal is a federal, state, or local governmental body: a director or highest
10 official appointed or designated to oversee the operation and performance of the
11 activities of the government body, or the director's or official's designee.

12 4. The individuals described in Section 3.b.1 through Section 3.b.3 may designate a duly
13 authorized representative if the authorization is in writing, the authorization specifies
14 the individual or position responsible for the overall operation of the facility from
15 which the discharge originates or having overall responsibility for environmental
16 matters for the company, and the written authorization is submitted to the District. If
17 an authorization under this Section 3.b.4 is no longer accurate because a different
18 individual or position has responsibility for the overall operation of the facility, or
19 overall responsibility for environmental matters for the company, a new authorization
20 satisfying the requirements of this Section 3.b.4 must be submitted to the District
21 prior to or together with any applications or reports to be signed by an authorized
22 representative.

23 c. Best Management Practice (BMP). A schedule of activities, prohibition of practices,
24 maintenance procedure, and other management practices to implement the prohibitions
25 listed in Section 4. BMPs include treatment requirements, operating procedures, and
26 practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or
27 drainage from raw materials storage. BMPs also include alternative means (i.e.,
28 management plans) of complying with certain established Categorical Pretreatment
29 Standards and effluent limits.

- 1 d. Biochemical Oxygen Demand or BOD5. The quantity of oxygen utilized in the
2 biochemical oxidation of organic matter under standard laboratory procedures for five
3 days at 20 °C, usually expressed as a concentration (e.g., mg/L).
- 4 e. Categorical Industrial User. Any person subject to a Categorical Pretreatment Standard
5 or Categorical Standard.
- 6 f. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing
7 pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and
8 (c) of the Act that apply to a specific category of users and that appear in 40 CFR Chapter
9 I, Subchapter N, Parts 405-471.
- 10 g. City. An incorporated city with any portion within the District's service area, or with
11 which the District has an agreement to provide wastewater conveyance or treatment
12 services.
- 13 h. Day. A calendar day. When the due date for an action falls on a weekend or legal
14 holiday as defined in ORS 187.010 and ORS 187.020, the action is due the next day that
15 is not a weekend or legal holiday.
- 16 i. Discharge. The introduction of waste into the POTW by any means.
- 17 j. Disruption. When caused by a discharge either alone or in combination with other
18 discharges, "disruption" is a deleterious impact on the structure, function, operation or
19 maintenance of the POTW (including an increase in maintenance requirements or a risk
20 of harm to persons), or on the ability to beneficially reuse biosolids, recycled water, or
21 any product produced by the POTW.
- 22 k. District. Depending on context, "District" may mean:
- 23 1. Clean Water Services;
- 24 2. Any person authorized to act on behalf of Clean Water Services;
- 25 3. The geographic area served by Clean Water Services, including incorporated cities.
- 26 l. District Rule. Any provision of a District Ordinance, Resolution and Order, Order, or
27 permit applicable to the discharge of nondomestic waste.
- 28 m. Domestic waste. Waste originating from bodily processes (except hauled septic tank
29 waste) and from normal household activities such as bathing, laundering, washing, and
30 food preparation, when conducted for other than a commercial, industrial, or institutional
31 purpose.

- 1 n. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency
2 or, where appropriate, the Regional Water Management Division Director, the Regional
3 Administrator, or other duly authorized official of the EPA.
- 4 o. Existing Source. Any source of discharge that is not a “New Source.”
- 5 p. Facility. Any place from which nondomestic waste is, or may be, discharged. Facilities
6 include, but are not limited to:
- 7 1. buildings, structures, equipment, tanks, containers, pipes, ditches, and all land
8 contiguous thereto under the same ownership or control, and
- 9 2. vehicles, trailers, and other mobile sources.
- 10 q. Final Decision. A decision on a matter by the District that is appealable to the
11 Washington County Circuit Court via a Writ of Review pursuant to ORS 34.010 to
12 34.102.
- 13 r. Hearing Officer. A person designated by the District to adjudicate appeals as provided in
14 this Ordinance. The Hearing Officer may be the Chief Executive Officer of the District
15 or any person designated by the District as a Hearing Officer.
- 16 s. Indirect Discharge. The introduction of pollutants into the POTW from any nondomestic
17 source regulated under section 307(b), (c) or (d) of the Act.
- 18 t. Industrial user. A source of Indirect Discharge.
- 19 u. Interference. A discharge which, alone or in conjunction with a discharge or discharges
20 from other sources, both:
- 21 1. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge
22 processes, use or disposal; and
- 23 2. Therefore is a cause of a violation of any requirement of the POTW’s NPDES permit
24 (including an increase in the magnitude or duration of a violation) or of the
25 prevention of sewage sludge use or disposal in compliance with the following
26 statutory provisions and regulations or permits issued thereunder (or more stringent
27 State or local regulations): Section 405 of the Clean Water Act, the Solid Waste
28 Disposal Act (SWDA) (including Title II, more commonly referred to as the
29 Resource Conservation and Recovery Act (RCRA), and including State regulations
30 contained in any State sludge management plan prepared pursuant to subtitle D of the

1 SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine
2 Protection, Research and Sanctuaries Act.

- 3 v. Local Limit. Specific discharge limits developed and enforced by the District to
4 implement the general and specific discharge prohibitions listed in Section 4.a and
5 Section 4.b.
- 6 w. New discharge. Any discharge to the POTW that commences after the effective date of a
7 requirement that the discharge must be permitted.
- 8 x. New Source.
- 9 1. Any building, structure, facility, or installation from which there is (or may be) a
10 discharge of nondomestic waste to the POTW, the construction of which commenced
11 after the publication of proposed Pretreatment Standards under section 307(c) of the
12 Act that will be applicable to such source if such Standards are thereafter
13 promulgated in accordance with that section, provided that:
- 14 A. The building, structure, facility, or installation is constructed at a site at which no
15 other source is located; or
- 16 B. The building, structure, facility, or installation totally replaces the process or
17 production equipment that causes the discharge of nondomestic waste at an
18 Existing Source; or
- 19 C. The production or wastewater generating processes of the building, structure,
20 facility, or installation are substantially independent of an Existing Source at the
21 same site. In determining whether these are substantially independent, factors
22 such as the extent to which the new facility is integrated with the existing plant,
23 and the extent to which the new facility is engaged in the same general type of
24 activity as the Existing Source, should be considered.
- 25 2. Modification. Construction on a site at which an Existing Source is located results in
26 a modification rather than a New Source if the construction does not create a new
27 building, structure, facility, or installation meeting the criteria of Section 3.x.1.B or
28 Section 3.x.1.C but otherwise alters, replaces, or adds to existing process or
29 production equipment.

1 3. Commencement of construction. Construction of a New Source as defined under this
2 paragraph has commenced if the owner or operator has:

3 A. Begun, or caused to begin, as part of a continuous onsite construction program

4 i. any placement, assembly, or installation of facilities or equipment; or

5 ii. significant site preparation work including clearing, excavation, or removal of
6 existing buildings, structures, or facilities which is necessary for the
7 placement, assembly, or installation of new source facilities or equipment; or

8 B. Entered into a binding contractual obligation for the purchase of facilities or
9 equipment which are intended to be used in its operation within a reasonable time.

10 Options to purchase or contracts which can be terminated or modified without
11 substantial loss, and contracts for feasibility, engineering, and design studies do
12 not constitute a contractual obligation under this paragraph.

13 y. Nondomestic waste. Any waste other than a domestic waste. The following, without
14 limitation, are nondomestic wastes: discharges from fire hydrant flushing; discharges
15 from chlorinated water line flushing; discharges of pumped groundwater; discharges from
16 aquifer storage and recovery flushing; stormwater intentionally discharged to the POTW;
17 discharges from draining swimming pools, hot tubs, and spas.

18 z. Nondomestic waste discharge permit. A control mechanism issued by the District to
19 regulate the discharge of nondomestic waste to the POTW. Nondomestic waste
20 discharge permits include industrial wastewater discharge permits, washwater permits,
21 best management practices permits, letters of authorization, and any document designated
22 by the District as a nondomestic waste discharge permit.

23 aa. Operator. A person responsible for the overall operation of a facility.

24 bb. Owner. The legal owner of record; if there is a recorded land sale contract, the purchaser
25 thereunder. "Owner" applies to the owner of real property (including improvements and
26 equipment), the owner of a vehicle, and the owner of a business or business organization.

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

31

- 1 dd. Person. An individual, public or private corporation, political subdivision, governmental
2 agency, municipality, partnership, association, firm, trust, estate, company, association,
3 joint stock company or any legal entity whatsoever, including any federal, state, and local
4 governmental entities.
- 5 ee. pH. A measure of the hydrogen ion activity of an aqueous solution, expressed as a
6 dimensionless quantity.
- 7 ff. POTW treatment plant. That portion of the POTW that is designed to provide treatment
8 (including recycling and reclamation) of municipal sewage and industrial waste.
- 9 gg. Publicly Owned Treatment Works (POTW). The treatment works, as defined in section
10 212 of the Act, owned or operated by the District or a City. The POTW includes any
11 devices or systems owned by the District used in the storage, treatment, recycling and
12 reclamation of municipal sewage or industrial wastes. The POTW also includes sewers,
13 pipes, pump stations, force mains and other conveyances owned or operated by the
14 District or a City that convey wastewater to a District POTW treatment plant.
- 15 hh. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or
16 the alteration of the nature of pollutant properties in wastewater prior to or in lieu of
17 discharging or otherwise introducing such pollutants into a POTW. The reduction or
18 alteration may be obtained by physical, chemical or biological processes, process changes
19 or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment
20 technology includes control equipment, such as equalization tanks or facilities, for
21 protection against surges or slug loadings that might interfere with or otherwise be
22 incompatible with the POTW. However, where wastewater from a regulated process is
23 mixed in an equalization facility with unregulated wastewater or with wastewater from
24 another regulated process, the effluent from the equalization facility must meet an
25 adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).
- 26 ii. Pretreatment Requirements. Any substantive or procedural requirement related to
27 pretreatment imposed by rule or permit, other than a Pretreatment Standard.
- 28 jj. Pretreatment Standards. Prohibited Discharge Standards, Categorical Pretreatment
29 Standards, and Local Limits.
- 30 kk. Prohibited Discharge Standards or Prohibited Discharges. Prohibitions against the
31 discharge of certain substances; these prohibitions appear in Section 4.

- 1 ll. Respondent. The person to whom a formal enforcement action is issued by the District.
- 2 mm. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets,
- 3 campers, trailers, and septic tanks.
- 4 nn. Significant Industrial User (SIU). Except as provided in Sections 3.nn.3 and 3.nn.4, a
- 5 Significant Industrial User is:
- 6 1. Any Industrial User subject to Categorical Pretreatment Standards; and
- 7 2. Any other Industrial User that:
- 8 A. Discharges an average of 25,000 gallons per day or more of process wastewater to
- 9 the POTW (excluding sanitary, noncontact cooling and boiler blowdown
- 10 wastewater) in any calendar month;
- 11 B. Discharges a process wastewater that makes up five percent or more of the
- 12 average dry weather hydraulic or organic capacity of the POTW treatment plant;
- 13 or
- 14 C. Is designated as such by the District on the basis that the Industrial User has a
- 15 reasonable potential for adversely affecting the POTW's operation or for violating
- 16 any Pretreatment Standard or Requirement.
- 17 3. The District may determine that any Industrial User subject to categorical
- 18 Pretreatment Standards is a Non-Significant Categorical Industrial User (NSCIU)
- 19 rather than a Significant Industrial User on a finding that the Industrial User never
- 20 discharges more than 100 gallons per day of total categorical wastewater (excluding
- 21 sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically
- 22 included in the Pretreatment Standard) and the following conditions are met:
- 23 A. The Industrial User, prior to District's finding, has consistently complied with all
- 24 applicable categorical Pretreatment Standards and Requirements;
- 25 B. The Industrial User annually submits the certification statement required in
- 26 Section 10.h.3, together with any additional information necessary to support the
- 27 certification statement; and
- 28 C. The Industrial User never discharges any untreated concentrated wastewater.
- 29 4. Upon a finding that an Industrial User meeting the criteria in Section 3.nn.2 has no
- 30 reasonable potential for adversely affecting the POTW's operation or for violating
- 31 any Pretreatment Standard or Requirement, the District may at any time, on its own

1 initiative or in response to a petition received from the Industrial User, and in
2 accordance with procedures in 40 CFR 403.8(f)(6), determine that such Industrial
3 User is not a Significant Industrial User.

4 oo. Slug Load or Slug Discharge. A Slug Discharge is any discharge of a non-routine,
5 episodic nature, including but not limited to an accidental spill or a non-customary batch
6 Discharge, which has a reasonable potential to cause interference or pass through, or in
7 any other way violate District Rules, Local Limits or permit conditions.

8 pp. Stormwater. Stormwater runoff, snow melt runoff, and surface runoff and drainage.

9 qq. Stormwater conveyance system. The Municipal Separate Storm Sewer System owned or
10 operated by the District or a City, that is: the system of conveyances (including roads
11 with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade
12 channels, or storm drains) and appurtenant facilities owned or operated by the District or
13 a City and designed or used for collecting, conveying, storing, infiltrating, treating or
14 controlling the flow of stormwater, which is not part of the POTW.

15 rr. Surface waters of the State. Waters of the State other than groundwater.

16 ss. Temporary Sanitary Discharge. A discharge of limited duration. Temporary sanitary
17 discharges include, but are not limited to, discharges from: flushing chlorinated water
18 lines; flushing fire hydrants; flushing aquifer storage and retrieval systems; construction
19 de-watering; remediating underground storage tank sites; intentionally discharging
20 collected stormwater; draining swimming pools, hot tubs and spas; generating process
21 water in a short-term project; and draining systems containing uncontaminated potable
22 water. Whether a particular discharge qualifies as a temporary sanitary discharge is in
23 the sole discretion of the District.

24 tt. This Ordinance. Ordinance 42.

25 uu. Waters of the State. The waters of the State include lakes, bays, ponds, impounding
26 reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the
27 Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of
28 surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public
29 or private (except those private waters which do not combine or effect a junction with
30 natural surface or underground waters), which are wholly or partially within or bordering
31 the state or within its jurisdiction.

- 1 vv. Wetlands. Those areas that are inundated or saturated by surface or ground water at a
2 frequency and duration sufficient to support, and that under normal circumstances do
3 support, a prevalence of vegetation typically adapted for life in saturated soil conditions.
- 4 ww. Written, in writing. A communication in document form. The requirement for a written
5 submittal can be met by submitting a paper document or an electronic document, whether
6 by personal delivery, mail, fax, email, or other electronic document transfer process. A
7 voicemail message is not a writing, even if converted to text by the recipient.

8 SECTION 4. DISCHARGE LIMITATIONS

9 a. General Prohibitions

10 No person may discharge or cause to be discharged into the POTW any nondomestic
11 waste that causes Pass Through, Interference, or Disruption. This general prohibition and
12 the specific prohibitions in Section 4.b apply to all persons regardless of whether they are
13 subject to Categorical Pretreatment Standards or any other national, state, or local
14 Pretreatment Standards or Requirements, or whether they hold a permit to discharge
15 nondomestic waste to the POTW.

16 b. Specific Prohibitions

17 No person may discharge or cause to be discharged into the POTW, directly or indirectly,
18 any of the following nondomestic wastes:

- 19 1. Any substance in a quantity sufficient to create a potential for fire or explosion,
20 including: discharges with a closed cup flashpoint of less than 140 °F, using the test
21 methods specified in 40 CFR 261.21; and any discharge that creates two consecutive
22 readings on an explosive hazard meter at any point in the POTW to exceed five
23 percent, or any single reading to exceed 10 percent of the lower explosive limit;
- 24 2. Any substance that will cause corrosive structural damage to the POTW, but in no
25 case any substance having a pH less than 5.0 or equal to or exceeding 12.5, unless the
26 works is specifically designed to accommodate such discharges, except commercially
27 available drain cleaners used in conformance with the manufacturer's instructions;
- 28 3. Any solid or viscous substance in a quantity sufficient to cause, potentially cause, or
29 contribute to, restriction or obstruction of flow in the POTW. Such substances may
30 include, but are not limited to: solids exceeding one-half inch in any dimension,
31 viscous substances such as petroleum oil, mineral oil, animal or vegetable fats, oils

1 and greases, and any substance that is solid or viscous at temperatures between 32
2 and 150 °F;

3 4. Any substance, including oxygen demanding pollutants (BOD5, etc.) discharged to
4 the POTW at a flow rate or concentration that will or may cause interference or
5 disruption;

6 5. Any substance that, alone or in combination with other substances, will or may
7 through the creation of toxic, malodorous, or noxious gases, vapors or fumes: create a
8 public nuisance, create a hazard to human or animal life, create a hazard to worker
9 health or safety, or prevent safe entry into any portion of the POTW for inspection,
10 maintenance, or repair;

11 6. Any discharge to the POTW having a temperature that will inhibit biological activity
12 in a POTW treatment plant, but in no case any discharge with a temperature at the
13 point of discharge into the POTW exceeding 104 °F (40 degrees C);

14 7. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in
15 amounts that will cause interference, pass through, or disruption;

16 8. Any trucked or hauled wastes, except in accordance with Section 5.f.

17 9. Any radioactive wastes in amounts exceeding those established by state or federal
18 regulations;

19 10. Any residues from the pretreatment of waste, except in conformance with a District
20 permit or other authorization to do so;

21 11. Any substance that would be a hazardous waste pursuant to 40 CFR 261 or OAR
22 Chapter 340, Division 101, if otherwise disposed of, except as provided in 40 CFR
23 403.12(p) and in conformance with a District permit or other authorization to do so;

24 c. No person may process or store substances whose discharge is prohibited by this section
25 in such a manner that they could be discharged to the POTW in violation of the
26 prohibition.

27 d. The District may, through Resolution and Order, establish additional rules governing
28 discharges of nondomestic waste to the POTW.

29 e. The District may, through Resolution and Orders or through incorporation in a
30 nondomestic waste discharge permit, require Best Management Practices to implement
31 the requirements in this Ordinance.

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- 1 f. State Pretreatment Standards
2 All persons subject to state pretreatment standards and requirements must comply with
3 those pretreatment standards and requirements applicable to them set out in Oregon
4 Administrative Rules Chapter 340.
- 5 g. Local Limits; Best Management Practices
6 1. The District is authorized to establish Local Limits pursuant to 40 CFR 403.5(c)
7 through Resolution and Order or by inclusion in permits.
8 2. The District may require dischargers of nondomestic waste to implement Best
9 Management Practices by Ordinance, Resolution and Order, or by inclusion in
10 nondomestic waste permits to implement Local Limits and the prohibitions of Section
11 4.a and Section 4.b.
- 12 h. District's Right of Revision
13 The District may establish by Ordinance, Resolution and Order, or by inclusion in
14 nondomestic waste discharge permits more stringent standards or requirements on
15 discharges of nondomestic waste to the POTW, consistent with the purpose of this
16 Ordinance. Standards established in accordance with this section will be deemed
17 Pretreatment Standards for the purposes of Section 307(d) of the Act.
- 18 i. Dilution
19 Except where expressly authorized to do so by an applicable Pretreatment Standard or
20 Requirement, no person may in any way dilute a discharge of nondomestic waste
21 (including an increase in the volume of process wastewater) as a partial or complete
22 substitute for adequate treatment to achieve compliance with applicable Pretreatment
23 Standards or Requirements.
- 24 j. Categorical Pretreatment Standards
25 All persons subject to Categorical Pretreatment Standards must comply with applicable
26 standards set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471.
- 27 k. Wastewater Discharge Permit Limitations
28 No nondomestic waste permittee may discharge wastes to the POTW in excess of the
29 limitations established in their nondomestic waste discharge permit or in violation of any
30 discharge prohibitions in District Rules.

31

- 1 l. Permit Specific Limits
 - 2 The District may establish discharge limitations based on a technical evaluation for any
 - 3 discharger of nondomestic waste on a case-by-case basis to further the purposes of this
 - 4 Ordinance.
- 5 m. Mass and Concentration Limit Equivalency
 - 6 1. The District may issue mass limitations for dischargers in addition to or in place of
 - 7 concentration-based limits in accordance with the applicable provisions of 40 CFR
 - 8 403.6(c).
 - 9 2. The District may convert the mass-based limits of the Categorical Pretreatment
 - 10 Standards at 40 CFR Parts 414, 419 and 455 to concentration limits in accordance
 - 11 with 40 CFR 403.6(c).
- 12 n. Zero discharge limitation
 - 13 The District may impose on any Industrial User subject to categorical pretreatment
 - 14 standards a condition that the Industrial User not discharge specified categorical
 - 15 wastewaters to the POTW. Industrial Users subject to a zero discharge limitation are
 - 16 termed Nondischarging Categorical Industrial Users with zero discharge limitation
 - 17 (NDCIU with zero discharge limitation).
- 18 o. Nondischarging categoricals
 - 19 The District may issue a control mechanism in the form of a certification of status to any
 - 20 Industrial User subject to federal categorical pretreatment standards who does not
 - 21 discharge any categorical process wastes to the POTW.
- 22 p. Upset provision.
 - 23 1. Definition. For the purposes of this Ordinance, Upset means an exceptional incident
 - 24 in which there is unintentional and temporary noncompliance with categorical
 - 25 Pretreatment Standards because of factors beyond the reasonable control of the
 - 26 Industrial User. An Upset does not include noncompliance to the extent caused by
 - 27 operational error, improperly designed treatment facilities, inadequate treatment
 - 28 facilities, lack of preventive maintenance, or careless or improper operation.
 - 29 2. Effect of an upset. An Upset constitutes an affirmative defense to an action brought
 - 30 for noncompliance with categorical Pretreatment Standards if the requirements of
 - 31 Section 4.p.3 are met.

- 1 3. Conditions necessary for a demonstration of upset. An Industrial User who wishes to
2 establish the affirmative defense of Upset shall demonstrate, through properly signed,
3 contemporaneous operating logs, or other relevant evidence that:
- 4 A. An Upset occurred and the Industrial User can identify the cause(s) of the Upset;
5 B. The facility was at the time being operated in a prudent and workmanlike manner
6 and in compliance with applicable operation and maintenance procedures;
7 C. The Industrial User has submitted the following information to the District within
8 24 hours of becoming aware of the Upset (if this information is provided orally, a
9 written submission must be provided within five days):
- 10 i. A description of the Indirect Discharge and cause of noncompliance;
11 ii. The period of noncompliance, including exact dates and times or, if not
12 corrected, the anticipated time the noncompliance is expected to continue;
13 iii. Steps being taken and/or planned to reduce, eliminate and prevent recurrence
14 of the noncompliance.
- 15 4. Burden of proof. In any enforcement proceeding the Industrial User seeking to
16 establish the occurrence of an Upset shall have the burden of proof.
- 17 5. Reviewability of District consideration of claims of Upset. In the usual exercise of
18 prosecutorial discretion, the District should review any claims that noncompliance
19 was caused by an Upset. No determinations made in the course of the review
20 constitute final District action subject to judicial review. Industrial Users will have
21 the opportunity for a judicial determination on any claim of Upset only on appeal of a
22 District enforcement action brought for noncompliance with categorical Pretreatment
23 Standards.
- 24 6. User responsibility in case of upset. The Industrial User shall control production or
25 all Discharges to the extent necessary to maintain compliance with categorical
26 Pretreatment Standards upon reduction, loss, or failure of its treatment facility until
27 the facility is restored or an alternative method of treatment is provided. This
28 requirement applies in the situation where, among other things, the primary source of
29 power of the treatment facility is reduced, lost or fails.
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- 1 q. Bypass.
- 2 1. Definitions.
- 3 A. Bypass means the intentional diversion of wastestreams from any portion of an
- 4 Industrial User's treatment facility.
- 5 B. Severe property damage means substantial physical damage to property, damage
- 6 to the treatment facilities which causes them to become inoperable, or substantial
- 7 and permanent loss of natural resources which can reasonably be expected to
- 8 occur in the absence of a bypass. Severe property damage does not mean
- 9 economic loss caused by delays in production.
- 10 2. Bypass not violating applicable Pretreatment Standards or Requirements. An
- 11 Industrial User may allow any bypass to occur which does not cause Pretreatment
- 12 Standards or Requirements to be violated, but only if it also is for essential
- 13 maintenance to assure efficient operation. These bypasses are not subject to the
- 14 provision of 4.q.3 and 4.q.4 of this Ordinance.
- 15 3. Notice.
- 16 A. If an Industrial User knows in advance of the need for a bypass, it shall submit
- 17 prior notice to the District, if possible at least 10 days before the date of the
- 18 bypass.
- 19 B. An Industrial User shall submit oral notice of an unanticipated bypass that
- 20 exceeds applicable Pretreatment Standards to the District within 24 hours from
- 21 the time the Industrial User becomes aware of the bypass. The Industrial User
- 22 must also provide a written submission within five days of the time the Industrial
- 23 User becomes aware of the bypass. The written submission must contain a
- 24 description of the bypass and its cause; the duration of the bypass, including exact
- 25 dates and times, and, if the bypass has not been corrected, the anticipated time it is
- 26 expected to continue; and steps taken or planned to reduce, eliminate, and prevent
- 27 reoccurrence of the bypass. The District may waive the written report on a case-
- 28 by-case basis if the oral report has been received within 24 hours.
- 29 4. Prohibition of bypass.
- 30 A. Bypass is prohibited, and the District may take enforcement action against an
- 31 Industrial User for a bypass, unless:

- 1 i. Bypass was unavoidable to prevent loss of life, personal injury, or severe
- 2 property damage;
- 3 ii. There were no feasible alternatives to the bypass, such as the use of auxiliary
- 4 treatment facilities, retention of untreated wastes, or maintenance during
- 5 normal periods of equipment downtime. This condition is not satisfied if
- 6 adequate back-up equipment should have been installed in the exercise of
- 7 reasonable engineering judgment to prevent a bypass which occurred during
- 8 normal periods of equipment downtime or preventative maintenance; and
- 9 iii. The Industrial User submitted notices as required under Section 4.q.3.

10 B. The District may approve an anticipated bypass, after considering its adverse
11 effects, if the District determines that it will meet the three conditions listed in
12 Section 4.q.4.A.

13 SECTION 5. PRETREATMENT OF NONDOMESTIC WASTE; REGULATION OF
14 HAULED WASTES

15 a. Pretreatment Facilities

16 Any person discharging nondomestic waste from a nondomestic source to the POTW
17 must provide treatment as necessary to comply with District Rules and must achieve
18 compliance with all applicable Categorical Pretreatment Standards, Local Limits, and the
19 prohibitions set out in Section 4 within the time limitations specified by EPA, the State,
20 or the District, whichever is more stringent. The discharger must provide, operate, and
21 maintain any facilities necessary for compliance at the discharger's expense. All plans
22 for pretreatment facilities, interceptors, sampling structures, metering equipment, etc.
23 required by District Rules must be approved by the District prior to implementation.

- 24 1. Approval of plans by the District pursuant this paragraph does not constitute a
- 25 warranty that the facility will meet any requirement of District Rules or any other
- 26 requirement of law.
- 27 2. Plan approval by the District does not relieve the owner or operator of the
- 28 responsibility to provide additional or different facilities should the completed work
- 29 fail to achieve its design intent, operational or maintenance problems arise, or
- 30 treatment standards or requirements change.

1 b. Additional Pretreatment Measures

- 2 1. Whenever deemed necessary, the District may require a discharger to restrict its
3 discharge during peak flow periods, designate that certain wastewater be discharged
4 only into specific sewers, relocate and/or consolidate points of discharge, separate
5 domestic wastestreams from nondomestic wastestreams, and impose such other
6 conditions as may be necessary to protect the POTW and determine the discharger's
7 compliance with the requirements of District Rules.
- 8 2. The District may require any person discharging nondomestic waste into the POTW
9 to install and maintain, on their property and at their expense, a suitable storage and
10 flow-control facility to ensure equalization of flow. The District may require a
11 discharger to obtain a wastewater discharge permit solely for flow equalization.

12 c. Fats, Oil and Grease Control

- 13 1. Notwithstanding compliance with the Oregon State Uniform Plumbing Code or
14 installation of a District-approved grease interceptor, no person may discharge any
15 fats, oils, or grease (FOG) in quantities sufficient to cause or contribute to restriction
16 or obstruction of flow in the POTW.
- 17 2. The owner or operator of any facility where a grease interceptor is installed must
18 maintain the grease interceptor in efficient operating condition by removing
19 accumulated FOG before the system capacity is exceeded. The District may impose
20 maintenance frequency requirements when necessary to ensure proper maintenance.
21 The use of chemicals to dissolve FOG in, or downstream of, a grease interceptor is
22 prohibited. No person may discharge accumulated FOG to the POTW or any private
23 piping discharging to the POTW.
- 24 3. The District may require the owner or operator of a grease interceptor to open it for
25 inspection. The District may require the owner or operator to maintain records of
26 grease interceptor maintenance and to provide such records to the District upon
27 request.

28 d. Dental dischargers

- 29 1. Applicability: This subsection applies to dental dischargers, except:
30 A. Dental dischargers that exclusively practice one or more of the following
31 dental specialties:

- 1 i. Oral pathology;
2 ii. Oral and maxillofacial radiology;
3 iii. Oral and maxillofacial surgery;
4 iv. Orthodontics;
5 v. Periodontics;
6 vi. Prosthodontics;
7 B. Waste discharges from a mobile unit operated by a dental discharger;
8 C. Dental dischargers that do not discharge any amalgam process wastewater to
9 the POTW; and
10 D. Dental dischargers that do not place dental amalgam, and do not remove
11 amalgam except in limited emergency or unplanned, unanticipated
12 circumstances and that so certify to the District.
- 13 2. Definitions. The following definitions apply to this subsection.
- 14 A. Amalgam process wastewater. Any waste generated and discharged by a
15 dental discharger through the practice of dentistry that may contain dental
16 amalgam.
- 17 B. Amalgam separator. A collection device designed to capture and remove
18 dental amalgam from the amalgam process wastewater of a dental facility.
- 19 C. Dental amalgam. An alloy of elemental mercury and other metal(s) that is
20 used in the practice of dentistry.
- 21 D. Dental Discharger. A facility where the practice of dentistry is performed that
22 discharges to the POTW.
- 23 E. Mobile unit. A specialized mobile self-contained van, trailer, or equipment
24 used in providing dentistry services at multiple locations.
- 25 3. Standards for dental dischargers
26 Dental dischargers subject to this subsection must meet the following pretreatment
27 standards.
- 28 A. Remove dental amalgam solids from all amalgam process wastes by installing,
29 operating, and maintaining one or more amalgam separators meeting the
30 requirements of 40 CFR 441.30(a)(1)(i), sized to accommodate the maximum
31 discharge rate of amalgam process water.

- 1 B. Inspect the amalgam separator(s) in accordance with the manufacturer's
2 recommendations.
3 C. Repair improperly functioning amalgam separator(s) consistent with
4 manufacturer's instructions, or replace the unit no later than 10 business days
5 after the malfunction is discovered.
6 D. Replace amalgam retaining units in accordance with the manufacturer's
7 schedule or when the amalgam retaining unit has reached the maximum level
8 at which the amalgam separator can perform to the specified efficiency,
9 whichever comes first.

10 E. Implement the following best management practices:

- 11 i. Do not discharge waste amalgam to the POTW.
12 ii. Recycle amalgam waste.
13 iii. Do not clean water lines, traps and vacuum lines that discharge amalgam
14 process wastewater with oxidizing or acidic cleaners that have a pH lower
15 than 6 or greater than 8.
16 iv. Keep records of the installation and maintenance of the amalgam
17 separator(s) and provide these records to the District upon request. Retain
18 these records for three years.

19 4. One-time compliance report

20 Dental dischargers subject to this subsection must comply with 40 CFR 441.50(a)
21 regarding one-time compliance reporting. For the purposes of 40 CFR 441.50(a)
22 the District is the Control Authority.

23 e. Flammable substances

24 The District may require any discharger with the potential to discharge flammable
25 substances to install and maintain an approved combustible gas detection meter.

26 f. Hauled Wastes

27 1. Hauled septic tank waste

28 A. No person may introduce septic tank waste into the POTW at a location other than
29 one designated by the District, nor at times other than those established by the
30 District.

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1 B. The introduction of septic tank waste into the POTW must not violate Section 4 or
2 any other requirement established by the District.

3 C. The District may require any person hauling septic tank waste to obtain a
4 nondomestic waste discharge permit as a condition of discharge to the POTW.

5 2. Hauled industrial waste

6 A. No person may introduce hauled industrial waste into the POTW at a location
7 other than one designated by the District, nor at times other than those established
8 by the District.

9 B. No person may introduce hauled industrial waste into the POTW without prior
10 consent of the District.

11 C. The District may collect samples of a hauled load of industrial waste to ensure
12 compliance with applicable standards.

13 D. The District may require any person hauling industrial waste to provide a waste
14 analysis of any load prior to discharge.

15 E. The District may require any person hauling industrial waste to obtain a
16 nondomestic waste discharge permit as a condition of discharge to the POTW.

17 F. The District may require any person who generates hauled industrial waste to
18 obtain a nondomestic waste discharge permit as a condition of discharge to the
19 POTW.

20 G. The District may prohibit the disposal of hauled industrial waste.

21 H. The discharge of hauled industrial waste is subject to all other requirements of
22 District Rules.

23 I. Persons discharging hauled industrial waste to the POTW must complete a
24 District-supplied waste-tracking form for every load.

25 3. Hauled fats, oils, and grease

26 A. No person may introduce hauled fats, oil, and grease into the POTW at a location
27 other than one designated by the District, nor at times other than those established
28 by the District.

29 B. The introduction of hauled fats, oil, and grease into the POTW must not violate
30 Section 4 or any other requirement established by the District.

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1 C. The District may require any person hauling fats, oil and grease to obtain a
2 nondomestic waste discharge permit as a condition of discharge to the POTW.

3 SECTION 6. NONDOMESTIC WASTE DISCHARGE PERMITS

4 The District is authorized to issue nondomestic waste discharge permits to ensure compliance
5 with District Rules.

6 a. Nondomestic Waste Discharge Permit Requirement

- 7 1. Except as provided in Section 6.a.2, no Significant Industrial User may discharge
8 nondomestic waste to the POTW without first having obtained an industrial
9 wastewater discharge permit from the District to do so.
- 10 2. Until a new permit is issued or denied, a Significant Industrial User that has filed a
11 timely permit application pursuant to Section 6.c.2.A may continue an existing
12 discharge.
- 13 3. The District will issue a control mechanism in the form of a certification of status to
14 NDCIUs and NDCIUs with zero discharge limitations. Each NDCIU and NDCIU
15 with zero discharge limitations must certify annually to the District that it continues
16 to qualify for status as an NDCIU by submitting the certification at Section 9.h.2.
- 17 4. The District may require any person discharging nondomestic waste to obtain a
18 nondomestic waste discharge permit for the discharge in order to recover the
19 District's costs for conveying or treating the discharge.
- 20 5. The District may require any person discharging nondomestic waste to obtain a
21 wastewater discharge permit solely for flow equalization.
- 22 6. The District may require any person discharging nondomestic waste to obtain a
23 nondomestic waste discharge permit from the District for such discharge if the
24 District determines that a permit is necessary to provide oversight and control of the
25 discharge.
- 26 7. The requirement for a permit to discharge nondomestic waste is met by possession of
27 any of the following valid documents issued by the District: an industrial wastewater
28 discharge permit, a washwater permit, a best management practices permit, a letter of
29 authorization, a temporary sanitary discharge permit, a hauled industrial waste permit,
30 and any other document designated by the District as a nondomestic waste discharge

1 permit. A connection permit is not a permit to discharge nondomestic waste to the
2 POTW.

3 8. Any violation of the terms or conditions of a nondomestic waste discharge permit is a
4 violation of District Rules. Obtaining a nondomestic waste discharge permit does not
5 relieve a permittee of the obligation to comply with all federal and state Pretreatment
6 Standards or Requirements or with any other requirements of federal, state, and local
7 law.

8 b. Preliminary requirements

9 1. Wastewater Analysis

10 The District may require any person discharging nondomestic waste to the POTW to
11 submit information on the nature and characteristics of its waste. The District is
12 authorized to prepare forms for this purpose and may periodically require dischargers
13 to update this information. Failure to comply with a District request for information
14 is a violation of District Rules.

15 2. All persons proposing to discharge nondomestic waste to the POTW must submit
16 information on the type of business, the processes generating the waste and the nature
17 and characteristics of the waste in a manner prescribed by the District. The District
18 may require dischargers of nondomestic waste to update previously submitted
19 information. Failure to provide the information in the time allowed constitutes
20 reasonable cause for terminating existing service to the nondomestic discharger, or
21 withholding a permit for a new discharger.

22 3. A nondomestic waste discharge permittee must submit a new complete permit
23 application to the District whenever:

24 A. Its existing, permitted nondomestic waste discharge becomes subject to a federal
25 categorical standard;

26 B. The permittee is a Significant Industrial User and proposes a substantial change in
27 its discharge;

28 C. The permittee wishes to continue a discharge regulated by a nondomestic waste
29 discharge permit after its expiration date; or

30 D. Requested by the District.
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1 4. All applications, reports, and information submitted to the District by SIUs, including
2 the certification statement defined in 40 CFR 403.6 (a)(2)(ii), must be signed and
3 certified in accordance with 40 CFR 403.12(1).

4 c. Permit application time limits

5 1. New sources

6 Except as provided in Section 6.c.4, any owner or operator of a New Source must
7 submit an application to the District for a nondomestic waste discharge permit no less
8 than 90 days prior to the proposed beginning of the discharge.

9 2. Existing discharges; Renewals

10 Except as provided in Section 6.c.4, any person required to obtain a nondomestic
11 waste discharge permit who was discharging nondomestic waste to the POTW prior
12 to the effective date of the requirement to be permitted and who wishes to continue
13 such discharges, and, except as provided in Section 6.c.4, any person who wishes to
14 continue a discharge after the expiration of a nondomestic waste discharge permit,
15 must submit an application to the District for a nondomestic waste discharge permit
16 subject to the following:

17 A. Existing Significant Industrial Users: the Significant Industrial User must submit
18 the application no later than 180 days after the effective date of a categorical
19 pretreatment standard, or 90 days after notification by the District that such a
20 standard has been issued, or no less than 90 days prior to expiration of an existing
21 permit for the discharge, whichever is less;

22 B. All others: the discharger must submit the application no more than 90 days after
23 notification from the District that a nondomestic waste discharge permit is
24 required, or no less than 90 days prior to expiration of an existing permit for the
25 discharge.

26 C. The District may grant permission in writing to submit a new or renewal
27 application at a later date than those provided in Section 6.c.2.A and Section
28 6.c.2.B. The District will not grant permission for a renewal application to be
29 submitted later than the existing permit's expiration date.

30 D. Discharges that were occurring prior to the effective date of a requirement to be
31 permitted are allowed to continue until the District issues or denies a nondomestic

1 waste discharge permit for the discharge, as long as the discharger submits a
2 timely permit application in conformance with Section 6.d. During such time, the
3 discharger must comply with all requirements of District Rules and all other local,
4 state and federal requirements applicable to the discharge.

5 E. Discharges that were occurring prior to the expiration of a nondomestic waste
6 discharge permit are allowed to continue if the permittee timely applies for
7 renewal as required in this section. The permit will be administratively extended
8 and remain in effect until a new permit is issued or denied.

9 F. Upon issuance of a nondomestic waste discharge permit for an existing discharge,
10 the discharger will be subject to all terms and conditions in the permit.

11 G. Upon denial of a nondomestic waste discharge permit, the existing discharge
12 subject to the permit requirement must cease.

13 3. New discharges

14 A. Except as provided in Section 6.c.4, any person required to obtain a nondomestic
15 waste discharge permit who proposes to begin or recommence discharging
16 nondomestic waste into the POTW must apply for such permit no less than 90
17 days prior to the proposed beginning or recommencing of such discharge.

18 B. New discharges requiring a nondomestic waste discharge permit are not allowed
19 prior to issuance of such permit.

20 4. Temporary sanitary discharges

21 A. Any person required to obtain a nondomestic waste discharge permit for a
22 temporary sanitary discharge consisting solely of uncontaminated water or
23 chlorinated water (including swimming pool, hot tub, and spa waters) must apply
24 for such permit no less than five working days prior to the proposed beginning of
25 the discharge.

26 B. Any person required to obtain a nondomestic waste discharge permit for a
27 temporary sanitary discharge consisting of other than uncontaminated or
28 chlorinated water, must apply for such permit no less than 10 working days prior
29 to the proposed beginning of the discharge.
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- 1 d. Permit application contents
 - 2 1. Any person required to obtain a nondomestic waste discharge permit must submit a
 - 3 complete application using a District-supplied form.
 - 4 2. The District may require an applicant to submit additional information as necessary to
 - 5 facilitate the District's review of the permit application.
 - 6 3. All nondomestic waste discharge permit applications must be signed by an
 - 7 Authorized Representative of the applicant and contain the certification statement in
 - 8 Section 9.h.1.
- 9 e. Nondomestic waste discharge permit decisions
 - 10 The District will determine, based on the application, any inspections, and other relevant
 - 11 information, whether to issue or deny a nondomestic waste discharge permit. Applicants
 - 12 may appeal District decisions as provided in Section 7.
- 13 f. Permit terms
 - 14 1. Nondomestic waste discharge permits issued by the District are valid for a specified
 - 15 time period. Each nondomestic waste discharge permit must indicate its effective
 - 16 date and expiration date.
 - 17 2. Industrial wastewater discharge permits (other than for temporary sanitary
 - 18 discharges) issued to Significant Industrial Users must include at minimum:
 - 19 A. Statement of duration (in no case more than five years);
 - 20 B. Statement that the permit is subject to amendment, revocation, suspension or
 - 21 termination as provided by District Rules;
 - 22 C. Statement that the permittee acquires no property interest by virtue of permit
 - 23 approval, and that continued approval is expressly contingent on compliance
 - 24 with all applicable federal, state, local and District requirements;
 - 25 D. Statement of non-transferability without, at a minimum, prior notification to the
 - 26 District and provision of a copy of the existing permit to the new owner or
 - 27 operator;
 - 28 E. Effluent limits, including Best Management Practices, based on applicable
 - 29 general Pretreatment Standards in 40 CFR part 403, categorical pretreatment
 - 30 standards, local limits, District Rules, and state and local law;

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- F. Self-monitoring, sampling, analysis, reporting, re-sampling, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in 40 CFR part 403, categorical pretreatment standards, local limits, and state and local law;
 - G. Statement of applicable administrative, civil, and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines;
 - H. Requirements to control slug discharges, if determined by the District to be necessary; and
 - I. Requirements to properly operate and maintain all treatment and monitoring equipment.
3. Industrial wastewater discharge permits issued to Significant Industrial Users may include, in addition to the terms required in Section 6.f.2, any or all of the following terms:
- A. Limits on the average and maximum rate of discharge, limits on the time of discharge, and requirements for flow regulation and equalization;
 - B. Requirements in the form of a compliance schedule;
 - C. A statement that compliance with the individual 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 individual wastewater discharge permit;
 - D. Any grant of a monitoring waiver by the District;
 - E. Other conditions as deemed appropriate by the District to ensure compliance with District Rules, and state and federal laws, rules, and regulations.
4. Nondomestic waste discharge permits issued to other than Significant Industrial Users may include any or all of the terms in Section 6.f.2 and any or all of the terms in Section 6.f.3.

- 1 g. Monitoring of permitted facilities
 - 2 1. The District may set up on a permittee's property subject to a nondomestic waste
 - 3 discharge permit (or may require permittees to install) devices necessary to conduct
 - 4 sampling or monitoring of discharges of nondomestic wastes. The permittee must
 - 5 provide the District reasonable and safe access to such devices during times of
 - 6 discharge for sampling. The permittee must at all times maintain the facility's
 - 7 sampling and monitoring equipment in a safe and proper operating condition at the
 - 8 permittee's expense. The permittee must follow manufacturer's recommendations
 - 9 to calibrate all devices used to measure wastewater flow and quality to ensure their
 - 10 accuracy, and keep and maintain calibration logs for a minimum of three years.
 - 11 2. Continuous pH Recording
 - 12 The District may require any nondomestic waste permittee to perform continuous pH
 - 13 recording. Permittees required to use continuous pH monitoring devices must install
 - 14 devices capable of measuring and recording pH within the range of pH 0 to pH 14
 - 15 and must calibrate all devices at a frequency that ensures their accuracy. Continuous
 - 16 pH recording must be at intervals no greater than two minutes.
 - 17 3. When requested to do so by the District, the permittee must, at the permittee's
 - 18 expense, promptly remove (and not replace) any temporary or permanent obstruction
 - 19 to safe and easy access to the portions of the facility to be inspected or sampled.
- 20 h. Permit Modification
 - 21 1. The District may modify a nondomestic waste discharge permit for good cause,
 - 22 including, but not limited to, the following:
 - 23 A. To incorporate any new or revised federal, state, or local pretreatment standards
 - 24 or requirements;
 - 25 B. To address significant alterations or additions to the permittee's operation,
 - 26 processes, or wastewater volume or character since the time of the permit's
 - 27 issuance;
 - 28 C. A change in the POTW that requires either a temporary or permanent
 - 29 reduction or elimination of the permitted discharge;
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- D. Information indicating that the permitted discharge poses a threat to the POTW, the POTW's operation or maintenance, District personnel, the health and safety of the public, the District's beneficial use of biosolids, or the environment;
- E. Violation of any term or condition of the nondomestic waste discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the permit application or in any required reporting;
- G. To correct typographical or other errors in the permit;
- H. To reflect a transfer of the facility ownership or operation to a new owner or operator if requested in accordance with Section 6.i; or
- I. To allow the District to remain in compliance with regulatory requirements, including permit terms, and state and federal law.

2. The District will notify the permittee of any proposed modification to its permit 30 days prior to the effective date of the modification. The modification may include a compliance schedule allowing a specified time in which the permittee must comply with the modification.

i. Permit transfer

1. A permittee holding a nondomestic waste discharge permit may transfer the permit to a new owner or operator only if the permittee gives advance notice to the District and the District approves the transfer. The transferring permittee must provide a copy of the permit to the new owner or operator. Failure to provide the District advance notice of a transfer is good cause for the District to revoke the permit. The transfer of the permit and the transfer of any associated Equivalent Dwelling Units (EDUs) are separate actions, each independently subject to District approval. The notice to the District must include a written certification by the new owner or operator that:
 - A. States that the new owner or operator has no immediate intent to significantly 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 nondomestic waste discharge permit.
2. Upon District approval of the transfer, the new owner or operator will become the permittee, and the permit will remain in effect until it expires or is suspended,

1 revoked, or renewed. The District may require the new owner or operator to submit
2 an application for a new permit, in which case the District may either allow the permit
3 to remain in effect until a new permit is issued, or suspend or revoke the existing
4 permit.

5 3. Industrial Capacity Charges

6 A. The District may approve the transfer of EDUs purchased for an active, permitted
7 facility in the District to another facility in the District under the same ownership
8 or operator control to which operations are relocated, only if the nondomestic
9 waste discharge permit for the transferring facility is terminated. At the discretion
10 of the District and with prior District approval, the facilities may be operated
11 simultaneously for no longer than 60 days to allow transfer of operations, without
12 loss of EDU credit. Once transferred, EDUs are no longer available at the
13 transferring location and any new operations at that location will require the
14 purchase of sufficient EDUs from the District.

15 B. The District may approve the transfer of EDUs purchased for a fixed permitted
16 facility in the District to a new owner or operator of the facility who is continuing
17 the same or similar operations as the previous owner.

18 C. Approval of EDU transfers pursuant to this subsection is at the sole discretion of
19 the District and subject to the current District Rates and Charges Resolution and
20 Order.

21 j. Nondomestic waste discharge permit renewal; administrative extension

- 22 1. A permittee that desires to continue a discharge regulated by a nondomestic waste
23 discharge permit after the expiration date of the permit must apply for renewal of the
24 permit by submitting a complete permit application, in accordance with Section 6.c
25 and Section 6.d, no less than 90 days prior to the expiration of the existing permit.
26 The District may grant permission in writing to submit a renewal application at a later
27 date. The District will not grant permission for a renewal application to be submitted
28 later than the existing permit's expiration date.
- 29 2. An expired nondomestic waste discharge permit for which the permittee timely
30 applies for renewal continues in effect until the District issues a renewed permit,
31 denies the application for renewal, or until the permit is revoked or suspended.

- 1 k. Regulation of Waste Received from Other Jurisdictions
- 2 1. No person may discharge nondomestic waste from outside the District to the POTW,
- 3 other than hauled waste in compliance with Section 5.f, unless the District has entered
- 4 into an intergovernmental agreement with the contributing municipality.
- 5 2. Prior to entering into an intergovernmental agreement required by Section 6.k, the
- 6 District will request the following information from the contributing municipality:
- 7 A. A description of the quality and volume of wastewater discharged to the POTW
- 8 by the contributing municipality;
- 9 B. An inventory of all nondomestic waste dischargers located within the contributing
- 10 municipality that are discharging to the POTW; and
- 11 C. Such other information as the District may deem necessary.

12 SECTION 7. APPEAL OF DISTRICT RULE INTERPRETATIONS AND APPLICATIONS

- 13 a. This section applies to the appeal of District interpretations and applications of District
- 14 Rules, including the issuance, denial, or terms of nondomestic waste discharge permits.
- 15 The following are not subject to appeal under this section:
- 16 1. The adoption of District Rules.
- 17 2. The enforcement of District Rules under Section 8.
- 18 b. Any person seeking an interpretation or application of any District Rule must submit to
- 19 the District a written request for such interpretation or application. When so requested,
- 20 the District will provide a written interpretation or application of the rule.
- 21 c. Any person alleging an actual or threatened injury, readily traceable to the District's
- 22 interpretation or application of a District Rule and redressable through the remedy
- 23 sought, may request review of the interpretation or application by submitting a written
- 24 appeal to the District within 30 days of receipt of the District's written
- 25 interpretation. The appeal must include:
- 26 1. The appellant's name and address;
- 27 2. The circumstances leading to the appeal, including the appellant's reasons why the
- 28 District's interpretation or application was incorrect;
- 29 3. The specific District Rule or decision at issue;
- 30 4. The impact of the District's decision on the appellant; and
- 31 5. The relief requested.

- 1 d. The District must notify an applicant or permittee whenever a District decision regarding
2 their permit is appealed by a third party.
- 3 e. To aid in adjudicating the appeal, the District may investigate the matter, request
4 additional information from the appellant and may, in its discretion, hold a hearing
5 conducted by the Chief Executive Officer of the District, or designee, on the matter in
6 order to receive testimony from the appellant and other interested persons. Any hearing
7 must be scheduled by written notice not less than 14 days in advance to the appellant and
8 other interested persons. In any matter involving the issuance or denial of a permit, the
9 permit applicant is an interested person.
- 10 f. The District must issue a written decision on the appeal within 30 days after receipt of a
11 complete appeal, or, if a hearing is held, 30 days after the hearing, or as otherwise agreed
12 by the District and the appellant.
- 13 g. The District's written decision on the appeal is the Final Decision of the District.
- 14 h. An appellant who wishes to appeal the District's written decision on the appeal by way of
15 a Writ of Review pursuant to Oregon Revised Statutes Chapter 34 must so notify the
16 District within 10 days of receipt of the District's decision.

17 SECTION 8. ENFORCEMENT, REMEDIES, HEARINGS AND APPEALS

- 18 a. Jurisdiction
- 19 1. The District is authorized to take enforcement action as provided in this section
20 against any person, wherever located, for violating any District Rule.
- 21 2. The District is authorized to investigate instances of noncompliance with District
22 Rules, including carrying out inspections, surveillance and monitoring necessary to
23 determine compliance with District Rules.
- 24 3. The District has concurrent jurisdiction with incorporated cities within the District
25 and with Washington County.
- 26 4. The District may refer violations of District Rules to other governmental bodies for
27 investigation and enforcement, including, but not limited to, city and county code
28 enforcement and law enforcement agencies, Washington County Department of
29 Health and Human Services, Oregon Department of Environmental Quality, Oregon
30 State Police, Oregon State Fire Marshall, and the US Environmental Protection

1 Agency. The District may cooperate with investigations and enforcement actions
2 carried out by these and other agencies.

3 b. Monetary administrative penalties

4 1. The District is authorized to assess monetary administrative penalties for violation of
5 District Rules, up to \$5,000 per day per violation. The economic benefit portion of a
6 penalty is not subject to the \$5,000 per day limit. Penalties may be assessed for each
7 day of each violation found to have been committed, without limitation of the total
8 amount assessed against the Respondent. The District will determine the amount of
9 any monetary administrative penalty based on the magnitude of the violation, the
10 extent of any environmental damage or other injury caused by the violation, whether
11 the violation resulted from an accident or negligent or intentional acts or omissions,
12 the compliance history of the Respondent including any efforts made by the
13 Respondent to correct prior or current violations, any economic benefit gained by the
14 Respondent in committing the violation, and other relevant factors. The District may,
15 by Resolution and Order, establish monetary administrative penalty amounts for
16 specific violations, and the process for determining penalties in particular
17 circumstances.

18 2. In determining the amount of an administrative penalty, unless Section 8.b.3 applies,
19 the District will apply the following formula, with factors as defined herein.

20 Administrative penalty = \$100 X (M+I+F+H) + EB, where

- 21 A. M, magnitude, reflects the extent of noncompliance with standards, including
22 numeric and time factors. Assigned a value of 1 to 15.
- 23 B. I, impact, reflects any impact on the environment, human health, or District or
24 City property or operations. Assigned a value of 0 to 10.
- 25 C. F, fault, reflects whether the violation resulted from an accidental, negligent, or
26 intentional act or omission. Assigned a value of 0, 5, or 15, respectively.
- 27 D. H, history, reflects the compliance history of the Respondent, including prior
28 violations and efforts taken to correct them. Assigned a value of 0 to 10.
- 29 E. EB, economic benefit, the value of any economic benefit Respondent gained
30 from the violation by avoiding costs of compliance.

1 3. If the administrative penalty calculated as provided in Section 8.b.2 does not reflect
2 the circumstances of the violation or produces an unjust result, the District may
3 calculate the administrative penalty by any method that reaches an appropriate
4 penalty under the circumstances, applying the factors in Section 8.b.1.

5 c. Orders

6 1. Upon a determination of violation of any District Rule, the District is authorized to
7 issue Orders requiring any or all of the following. Reimbursements to the District
8 and costs of corrective actions provided for here are remedial in nature and are not
9 penalties and are not subject to any limitation on penalty amounts.

10 A. Compliance with District Rules, including the collection of data and submittal of
11 documents necessary to determine compliance;

12 B. Corrective actions to prevent continued or future violation, including development
13 of a compliance schedule;

14 C. Cessation of specified actions related to the violation;

15 D. Corrective actions to address the impacts of the violation, including
16 environmental cleanup and remediation;

17 E. Reimbursement of costs incurred in responding to the violation, including costs of
18 emergency response, investigation, maintenance, operations, remediation, and
19 enforcement, along with payment for damages to District and City property or
20 operations and harm to District or City employees caused by the violation.

21 F. Reimbursement to the District of any payments avoided through the violation.

22 G. Payment of monetary penalties as provided in District Rules.

23 2. The District is authorized to enter into negotiated agreements resolving violations or
24 potential violations of District Rules by issuing Consent Orders. Consent Orders
25 must include a waiver of appeal rights by the Respondent.

26 3. Decisions of a District Hearing Officer or the Chief Executive Officer or designee
27 regarding appeals of formal enforcement actions will be issued in the form of District
28 Orders containing findings of fact and conclusions of law, along with the imposition
29 of penalties and affirmation of Orders contained in the formal enforcement action.
30
31

1 4. Final Orders on Default. In the event a Respondent fails to timely appeal a formal
2 enforcement action or fails to appear at a scheduled hearing without good cause, the
3 District is authorized to issue Final Orders on Default.

4 5. Noncompliance with a District Order is a violation of District Rules.

5 d. Suspension and revocation of permits

6 1. For good cause, including violation of any District Rule, the District may suspend or
7 revoke any nondomestic waste discharge permit issued by the District.

8 2. If the permit suspension or revocation is based on a violation of a District Rule, the
9 suspension or revocation will be sought as a remedy through Notice of Violation
10 pursuant to Section 8.i.

11 3. If the permit suspension or revocation is based on good cause other than a violation of
12 a District Rule, the District will initiate the permit suspension or revocation by issuing
13 a Notice of Permit Suspension or Revocation to the permittee pursuant to Section 8.i.

14 Good cause includes, but is not limited to, the following:

15 A. Failure to notify the District of significant changes to the permitted discharge
16 prior to the change;

17 B. Failure to provide prior notification to the District of changed conditions pursuant
18 to Section 10.a;

19 C. Misrepresentation or failure to fully disclose all relevant facts in the nondomestic
20 waste discharge permit application;

21 D. Falsifying self-monitoring reports and certification statements;

22 E. Tampering with monitoring equipment;

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

24 G. Failure to meet effluent limitations;

25 H. Failure to pay penalties;

26 I. Failure to pay sewer charges;

27 J. Failure to purchase additional discharge capacity when required by the District;

28 K. Failure to meet compliance schedules;

29 L. Failure to complete a wastewater survey or the wastewater discharge permit
30 application, or provide other information requested by the District;

31

- 1 M. Failure to provide advance notice of the transfer of business ownership of a
2 permitted facility;
- 3 N. Cessation of facility operations for a period of two years or more; or
- 4 O. Violation of any pretreatment standard or requirement, or any terms of the
5 nondomestic waste discharge permit, or District Rules.
- 6 4. Upon suspension or revocation of a nondomestic waste discharge permit, any EDUs
7 associated with the permitted facility immediately expire.
- 8 5. The District may, through Resolution and Order, adopt rules governing the
9 suspension, revocation, and reinstatement of permits.
- 10 e. Emergency suspension of permits; Emergency suspension of sewer service
- 11 1. The District may suspend any District-issued nondomestic waste discharge permit,
12 and may suspend sewer service to any non-residential discharger of nondomestic
13 waste by physically blocking the sewer connection, upon a determination by the
14 District that an actual or threatened discharge from the property to the POTW or
15 surface waters of the State either:
- 16 A. Presents an imminent or substantial danger to the health or welfare of persons or
17 the environment;
- 18 B. Interferes with the operation of the POTW or stormwater conveyance system; or
- 19 C. Violates any pretreatment limit, any District Rule, or any other applicable law.
- 20 2. Emergency permit suspension is initiated by the District serving upon the permittee a
21 Notice of Emergency Permit Suspension. The Notice of Emergency Permit
22 Suspension is effective immediately upon service and is not stayed by appeal.
- 23 3. Service of the Notice of Emergency Permit Suspension may be by any means
24 reasonably calculated to provide notice, or by providing actual notice, to the
25 permittee.
- 26 4. The District will provide Notice of Emergency Suspension of Sewer Service to the
27 owner or operator of the subject property as soon as practicable, by any means
28 reasonably calculated to provide notice, or by providing actual notice.
- 29 5. The permittee to whom a Notice of Emergency Permit Suspension is directed has the
30 right to appeal the Notice of Emergency Permit Suspension at a hearing conducted as

1 provided in this subsection by filing a written request for hearing within three days of
2 service of the Notice of Emergency Permit Suspension.

3 6. The person to whom a Notice of Emergency Suspension of Sewer Service is directed
4 has the right to appeal the Notice of Emergency Suspension of Sewer Service at a
5 hearing conducted as provided in this subsection by filing a written request for
6 hearing within three days of service of the Notice of Emergency Suspension of Sewer
7 Service.

8 7. Upon receipt by the District of a written request for a hearing on a Notice of
9 Emergency Permit Suspension or a Notice of Emergency Suspension of Sewer
10 Service, the District will set a time and place for a hearing, which will be no more
11 than five days from the date of filing of the request for hearing, and will so notify the
12 person requesting the hearing. The hearing will be conducted by the District Chief
13 Executive Officer (or designee).

14 8. Based on evidence presented at the hearing, the District will issue an Order
15 containing findings on the validity of the Notice of Emergency Permit Suspension or
16 Notice of Emergency Suspension of Sewer Service. The Order may require the
17 permittee to cease discharges or other activities allowed under the permit, or may
18 require the District to withdraw the Notice if it is determined to be invalid. The
19 District Order is the Final Decision of the District.

20 9. The District will lift the permit suspension or service suspension upon confirmation
21 that the circumstances necessitating the suspension have been corrected, or if the
22 Notice is determined to be invalid.

23 f. Inspections.

24 1. The District is authorized to carry out all inspections, surveillance and monitoring
25 procedures necessary to determine, independent of information supplied by
26 dischargers of nondomestic waste, compliance or noncompliance with District Rules.
27 The District is authorized to enter any premises of any discharger of nondomestic
28 waste in which a discharge source, treatment system, or production area is located or
29 in which records are required to be kept to ensure compliance with District Rules.
30 The District may, at reasonable times, have access to and copy any records, inspect

1 any monitoring equipment or method required by District Rules, and sample any
2 effluents that the owner or operator of a source of discharge is required to sample.

- 3 2. Inspections may include visual observation of the premises, collection of ambient
4 data, collection of samples, taking of photographs, inspection and copying of
5 documents, and interviewing employees, contractors, and other witnesses.
- 6 3. If security measures at the premises are in force that require proper identification and
7 clearance before entry, the owner or authorized person must make necessary
8 arrangements so that, upon presentation of suitable identification, the District will be
9 permitted to enter without delay for the purposes of performing the inspection.

10 g. Search warrants

- 11 1. The District is authorized to seek administrative search warrants from the proper
12 court.
- 13 2. The District is authorized to execute duly issued administrative search warrants
14 according to their terms.

15 h. Hearing Officer

16 The District may designate one or more persons to hear and adjudicate appeals of Notices
17 of Violation (including Orders, suspension or revocation of a permit, and imposition of
18 monetary administrative penalties), and Notices of Permit Suspension or Revocation. The
19 Hearing Officer is authorized to issue District orders as provided in this Ordinance.
20 Appeals of Notices of Emergency Permit Suspension will be heard by the District Chief
21 Executive Officer or designee.

22 i. Initiation of formal enforcement action

- 23 1. Formal enforcement of District Rules is initiated by the District serving a Notice of
24 Violation or Notice of Permit Suspension or Revocation upon the Respondent. The
25 Notice of Violation may include one or more Orders, an Assessment of Monetary
26 Administrative Penalty, and a Notice of Permit Suspension or Revocation. Formal
27 enforcement through Notice of Emergency Permit Suspension or Notice of
28 Emergency Suspension of Sewer Service is described in Section 8.e.
- 29 2. Service of the Notice of Violation or Notice of Permit Suspension or Revocation may
30 be by any means reasonably calculated to provide notice, or by providing actual
31 notice, to the Respondent.

1 j. Initial Appeal; Conference

- 2 1. Any Respondent to whom the District issues a Notice of Violation or Notice of
3 Permit Suspension or Revocation has the right to an initial appeal. In order to be
4 timely, the initial appeal must be written and must be received by the District no later
5 than 10 days after service of the Notice of Violation or Notice of Permit Suspension
6 or Revocation. The initial appeal must contain:
7 A. A reference to the matter being appealed;
8 B. A statement of the interest of the appellant;
9 C. An short and plain description of the basis of the appeal; and
10 D. Notice of whether the appellant will be represented by legal counsel in the appeal.
11 2. After receipt of the initial appeal, the District will contact the Respondent to establish
12 a schedule for submitting additional information and holding a conference with the
13 District Chief Executive Officer or designee to resolve the initial appeal. The date of
14 the conference will be no later than 20 days following receipt of the initial appeal.
15 The place of the conference will be the District's Administrative Building Complex,
16 Washington County, Oregon.
17 3. Respondent may submit additional documentary information to the District according
18 to the agreed-upon schedule. Respondent may have other persons present at the
19 conference to provide additional information. A Respondent who intends to bring
20 legal counsel to the conference must notify the District in the initial appeal.
21 4. After considering all relevant and reliable information available, the District will
22 issue the decision on the initial appeal in the form of a Findings and Order on Initial
23 Appeal. The District may affirm, modify, or dismiss the Notice of Violation or
24 Notice of Permit Suspension or Revocation and any portion thereof. The District will
25 deliver the Findings and Order on Initial Appeal to the Respondent by certified mail.

26 k. Final District Appeal

- 27 1. Any Respondent dissatisfied with the Findings and Order on Initial Appeal has the
28 right to a Final District Appeal to be heard at a hearing conducted as provided in
29 Section 8.1. In order to be timely, a Final District Appeal must be written and must be
30 received by the District no later than 10 days after the date of receipt of the Findings
31 and Order on Initial Appeal. Any Findings and Order on Initial Appeal that is not

1 appealed by the Respondent becomes a Final Decision of the District on the date by
2 which a Final District Appeal is due.

3 2. The Final District Appeal must contain:

4 A. A reference to the matter being appealed;

5 B. A statement of the interest of the appellant; and

6 C. A short and plain description of the basis of the appeal.

7 1. Hearings

8 1. When provided for in this Ordinance, the Hearing Officer will conduct a hearing in
9 conformance with this subsection, except as provided otherwise in this Ordinance.

10 The hearing will be a de novo adjudication of the matters alleged in the Notice of
11 Violation or Notice of Permit Suspension or Revocation.

12 2. The time and place of the hearing will be scheduled by the Hearing Officer after
13 receipt of a valid Final District Appeal. The date of the hearing will be no more than
14 30 days following receipt of the Final District Appeal. The place of the hearing will
15 be in Washington County, Oregon. The Hearing Officer will inform the appellant
16 and the District by certified mail of the date, time, and place of the hearing no less
17 than 20 days before the date of the hearing.

18 3. For good cause the Hearing Officer may postpone the hearing upon request of the
19 appellant or the District, or on the Hearing Officer's own motion. The Hearing
20 Officer will provide timely notice of postponement to the appellant and the District
21 and will reschedule the hearing.

22 4. The Hearing Officer may join multiple appellants and enforcement actions into a
23 single hearing as necessary for just adjudication of the matters.

24 5. The Hearing Officer must maintain a record of the hearing.

25 6. The appellant may choose to be represented by legal counsel, but counsel will not be
26 provided at District expense. The appellant must notify the District no less than 10
27 days before the hearing of the intention to be represented by legal counsel. Notice to
28 the District less than 10 days prior to the hearing constitutes good cause for
29 postponement.

30 7. The District has the burden of proving every element of the alleged violation and the
31 facts supporting any administrative penalty, Order, or permit suspension or revocation

1 by a preponderance of the evidence. Mental state is not an element of violations of
2 District Rules.

- 3 8. Hearings are not subject to the Oregon Evidence Code. The Hearing Officer will
4 admit and consider evidence that is relevant, reliable, helpful, and not duplicative.
5 All witness testimony must be given under oath and subject to cross examination by
6 the opposing party and questioning by the Hearing Officer.
- 7 9. Decisions of the Hearing Officer are to be in the form of a District Order setting forth
8 findings of fact and conclusions of law, imposing monetary penalties, and affirming
9 or reversing Orders and the suspension or revocation of permits. Decisions of the
10 Hearing Officer are the District's Final Decision on a matter.

11 m. Default

- 12 1. Notices of Violation, Orders, Assessments of Administrative Penalties, Notices of
13 Permit Suspension or Revocation, Notices of Emergency Permit Suspension, Notices
14 of Emergency Suspension of Sewer Service, and Findings and Orders on Initial
15 Appeal to which the Respondent does not appeal become final District Orders upon
16 the expiration of the period in which to file an appeal.
- 17 2. If the Respondent files an appeal and requests a conference or a hearing and fails to
18 appear at a scheduled conference or hearing without good cause, the Notices of
19 Violation, Orders, Assessments of Administrative Penalties, Notices of Permit
20 Suspension or Revocation, Notices of Emergency Permit Suspension, Notices of
21 Emergency Suspension of Sewer Services, and Findings and Order on Initial Appeal
22 become final District Orders and the District's Final Decision on the date of the
23 scheduled conference or hearing.
- 24 3. Upon a finding of default pursuant to Section 8.m.1 or Section 8.m.2, the District will
25 issue and serve on the Respondent an Order finding the Respondent in default and
26 designating the Notices of Violation, Orders, Assessments of Administrative
27 Penalties, Notices of Permit Suspension or Revocation, Notices of Emergency Permit
28 Suspension, Notices of Emergency Suspension of Sewer Service, and Findings and
29 Order on Initial Appeal as Final Decisions of the District.

- 1 n. Civil judicial enforcement
- 2 1. The District is authorized to take any action provided by law to enforce District Rules
- 3 or collect any moneys owed to the District as a result of enforcement actions taken
- 4 under District Rules.
- 5 2. The District is authorized to seek injunctive relief to enforce District Rules.
- 6 o. Criminal enforcement
- 7 The District is authorized to refer violations of District Rules to the proper authorities for
- 8 investigation and enforcement as criminal matters. Pursuant to ORS 198.600, violation
- 9 of District Rules is a Class C misdemeanor.
- 10 p. Informal enforcement and settlement
- 11 1. The formal enforcement methods provided in this Ordinance do not preclude the
- 12 District from using informal methods of gaining compliance.
- 13 2. The District may at any time resolve a pending or issued formal enforcement action
- 14 through negotiation and settlement. Settlements may include performance of
- 15 environmentally beneficial projects in lieu of payment of all or part of a monetary
- 16 administrative penalty. Any settlement must be in the form of a Consent Order.
- 17 q. Other remedies
- 18 1. Publication of Permittees in Significant Noncompliance
- 19 The District shall publish at least annually, in a newspaper of general circulation that
- 20 provides meaningful public notice within the jurisdictions served by the District, a list
- 21 of the nondomestic waste discharge permittees that, at any time during the previous
- 22 12 months, were in Significant Noncompliance with applicable Pretreatment
- 23 Standards and Requirements. The term "Significant Noncompliance" applies to all
- 24 Significant Industrial Users (and any other nondomestic waste discharger that violates
- 25 Section 8.q.1.C, Section 8.q.1.D, or Section 8.q.1.H) and means:
- 26 A. Chronic violations of wastewater discharge limits, defined here as those in which
- 27 66 percent or more of all the measurements taken for the same pollutant
- 28 parameter taken during a six-month period exceed (by any magnitude) a numeric
- 29 Pretreatment Standard or Requirement, including Instantaneous Limits;
- 30 B. Technical Review Criteria (TRC) violations, defined here as those in which 33
- 31 percent or more of wastewater measurements taken for each pollutant parameter

1 during a six-month period equals or exceeds the product of the numeric
2 Pretreatment Standard or Requirement including Instantaneous Limits, multiplied
3 by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all
4 other pollutants except pH);

5 C. Any other violation of a Pretreatment Standard or Requirement (Daily Maximum,
6 long term average, Instantaneous Limit, or narrative standard) that the District
7 determines has caused, alone or in combination with other discharges,
8 Interference or Pass Through, including endangering the health of District or city
9 personnel or the general public;

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

13 E. Failure to meet, within 90 days of the scheduled date, a compliance schedule
14 milestone contained in an individual wastewater discharge permit or enforcement
15 order for starting construction, completing construction, or attaining final
16 compliance;

17 F. Failure to provide within 45 days after the due date, any required reports, reports
18 on compliance deadlines, periodic self-monitoring reports, and reports on
19 compliance with compliance schedules;

20 G. Failure to accurately report noncompliance; or

21 H. Any other violation(s), which may include a violation of Best Management
22 Practices, that the District determines will adversely affect the operation or
23 implementation of the local pretreatment program.

24 2. Billing for flow or load exceedances; purchase of additional capacity

25 Exceedance by a permittee of its purchased capacity or strength surcharge is not a
26 violation of District Rules. The District may bill the permittee directly for the excess
27 without bringing a formal enforcement action, may compel the permittee to purchase
28 additional capacity, and may suspend or revoke the permit pursuant to Section 8.d.

29 r. Remedies not exclusive

30 The remedies provided in this Ordinance are not exclusive. Each and every remedy is
31 cumulative and is in addition to every other remedy provided herein and available in

1 existing law. The election of any one or more remedies does not waive the right of the
2 District to pursue other remedies.

3 s. Time limits

4 The District and the person to whom a formal enforcement action is directed may
5 mutually agree to time limits for actions that differ from those provided in this
6 Ordinance.

7 SECTION 9. CONFIDENTIAL INFORMATION

8 The District must ensure that information and data obtained from reports, surveys, wastewater
9 discharge permit applications, individual wastewater discharge permits, and monitoring
10 programs, and from the District's inspection and sampling activities will be available to the
11 public, upon proper request, without further notice to the person providing the information,
12 unless such specifically requests, and is able to demonstrate to the satisfaction of the District,
13 that the release of such information would divulge information, processes, or methods of
14 production entitled to protection as trade secrets under applicable State law. Oregon Revised
15 Statutes 192.345(2) exempts trade secrets in public records from disclosure, unless the public
16 interest requires disclosure in the particular instance. The person submitting information must
17 assert any such request at the time of submission of the information or data. When requested and
18 demonstrated by the person furnishing a report that such information includes trade secrets, the
19 District will withhold from public inspection the portions of a report that might disclose trade
20 secrets, but must make them available immediately upon request to governmental agencies for
21 uses related to the NPDES program or pretreatment program, and in enforcement proceedings
22 involving the person furnishing the report. The District will not recognize wastewater
23 constituents and characteristics and other effluent data, as defined at 40 CFR 2.302, as trade
24 secrets and will make such data available to the public upon proper request without restriction.
25 Notwithstanding any other provision of Section 9, all data and information obtained from
26 reports, surveys, wastewater discharge permit applications, individual wastewater discharge
27 permits, and monitoring programs, and from the District's inspection and sampling activities will
28 be available to government officials as required in 40 CFR 403.14 and 40 CFR 2.301.

1 SECTION 10. REPORTING AND RECORDKEEPING REQUIREMENTS;
2 CERTIFICATION

3 a. Reports of Changed Conditions

4 Persons discharging nondomestic waste to the POTW must notify the District of any
5 significant changes to their operations or facility that might alter the nature, quality, or
6 volume of their discharge at least 30 days before the change.

- 7 1. The District may require the discharger to submit such information as may be deemed
8 necessary to evaluate the changed condition, including the submission of a waste
9 discharge permit application under Section 6.
- 10 2. The District may require the discharger to apply for a nondomestic waste discharge
11 permit under Section 6 or modify an existing nondomestic waste discharge permit
12 under Section 6.h in response to changed conditions or anticipated changed
13 conditions.

14 b. Reports of Potential Problems

- 15 1. Persons discharging nondomestic waste must immediately notify the District of slug
16 discharges or accidental discharges of substances prohibited by this Ordinance. This
17 notification must include the location of the discharge, type of waste, concentration
18 and volume, if known, and corrective actions taken.
- 19 2. Significant Industrial Users must notify the District immediately of any changes at
20 their facility affecting the potential for a Slug Discharge.

21 c. Notification of the Discharge of Hazardous Waste

- 22 1. Persons discharging nondomestic waste shall notify the District, the EPA Regional
23 Waste Management Division Director, and State hazardous waste authorities in
24 writing of any discharge into the POTW of a substance, which, if otherwise disposed
25 of, would be a hazardous waste under 40 CFR part 261. Such notification must
26 include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA
27 hazardous waste number, and the type of discharge (continuous, batch, or other). If
28 the discharger discharges more than 100 kilograms of such waste per calendar month
29 to the POTW, the notification must also contain the following information to the
30 extent such information is known and readily available to the discharger: an
31 identification of the hazardous constituents contained in the wastes, an estimation of

1 the mass and concentration of such constituents in the wastestream discharged during
2 that calendar month, and an estimation of the mass of constituents in the wastestream
3 expected to be discharged during the following 12 months. All notifications must
4 take place within 180 days of the effective date of this Ordinance. Dischargers who
5 commence discharging after the effective date of this Ordinance shall provide the
6 notification no later than 180 days after the discharge of the listed or characteristic
7 hazardous waste. Any notification under this paragraph need be submitted only once
8 for each hazardous waste discharged. However, notifications of changed discharges
9 must be submitted under 40 CFR 403.12 (j). The notification requirement in this
10 section does not apply to pollutants already reported under the self-monitoring
11 requirements of 40 CFR 403.12 (b), (d) and (e).

12 2. Dischargers are exempt from the requirements of Section 10.c.1 during a calendar
13 month in which they discharge no more than 15 kilograms of hazardous wastes,
14 unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and
15 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a
16 calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR
17 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during
18 which the Industrial User discharges more than such quantities of any hazardous
19 waste do not require additional notification.

20 3. In the case of any new regulations under section 3001 of RCRA identifying additional
21 characteristics of hazardous waste or listing any additional substance as a hazardous
22 waste, the discharger must notify the District, the EPA Regional Waste Management
23 Waste Division Director, and State hazardous waste authorities of the discharge of
24 such substance within 90 days of the effective date of such regulations.

25 4. In the case of any notification made under Section 10.c, the discharger shall certify
26 that it has a program in place to reduce the volume and toxicity of hazardous wastes
27 generated to the degree it has determined to be economically practical.

28 d. Periodic reports on continued compliance

29 Industrial Users subject to categorical Pretreatment Standards and significant industrial
30 users not subject to categorical Pretreatment Standards must submit periodic compliance
31 reports to the District as required in their nondomestic waste discharge permits. If an

1 Industrial User monitors any regulated pollutant at the appropriate sampling location
2 using approved methods more frequently than required, the Industrial User must include
3 the results of that monitoring in the report.

4 e. Reports from Unpermitted Persons

5 The District may require any person discharging nondomestic waste to the POTW to
6 provide within a reasonable time any information needed to determine compliance with
7 District Rules. Failure to comply with a District request for information is a violation of
8 this Ordinance.

9 f. Analytical Requirements

10 Any person providing the results of analyses to the District as part of a permit application
11 or report must ensure that such analyses (including sampling) were performed in
12 accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto,
13 unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR
14 Part 136 does not contain sampling or analytical techniques for the analyte in question, or
15 where the EPA determines that the Part 136 sampling and analytical techniques are
16 inappropriate for the analyte in question, sampling and analyses must be performed by
17 using validated analytical methods or any other applicable sampling and analytical
18 procedures, including procedures suggested by the District or other parties approved by
19 EPA.

20 g. Date of Receipt of Reports

21 Written reports will be deemed to have been submitted on the date postmarked. For
22 reports that are not mailed, postage prepaid, into a mail facility serviced by the United
23 States Postal Service, the date of receipt of the report by the District will govern.

24 h. Recordkeeping

25 Persons subject to the reporting requirements of this Ordinance must retain, and make
26 available for inspection and copying, all records of information obtained pursuant to any
27 monitoring activities required by this Ordinance, any additional records of information
28 obtained pursuant to monitoring activities undertaken independent of such requirements,
29 and documentation associated with Best Management Practices established under Section
30 4.e, Section 4.g.2, and Section 6.f.2. Records must include the date, exact place, method,
31 and time of sampling, and the name of the person(s) taking the samples; the dates

1 analyses were performed; who performed the analyses; the analytical techniques or
2 methods used; and the results of such analyses. The permittee must maintain these
3 records for a period of at least three years. The retention period will be automatically
4 extended for the duration of any unresolved litigation concerning the permittee or the
5 District, when requested by DEQ or EPA, or when the District has specifically notified
6 the permittee of a longer retention period.

7 i. Certification Statements

8 1. Certification of permit applications and reports

9 The following certification statement must be signed by an Authorized Representative
10 and submitted along with any permit application or report:

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

20 2. Annual certification for Non-Discharging Categorical Industrial Users— The
21 following certification statement must be signed by an Authorized Representative and
22 submitted annually by Non-Discharging Categorical Industrial Users:

23 Based on my inquiry of the person or persons directly responsible for
24 managing compliance with the categorical Pretreatment Standards under
25 40 CFR ____, I certify that, to the best of my knowledge and belief that
26 during the period from _____, _____ to _____,
27 [months, days, year]:

28 (a) The facility described as _____
29 [facility name] met the definition of a Non-Discharging Categorical
30 Industrial User in Ordinance 42, Section 4.o;

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

3 (c) the facility never discharged any categorical wastewater during this
4 reporting period.

5 This compliance certification is based on the following information:
6
7

- 8 3. Annual certification by Non-Significant Categorical Industrial Users. The owner or
9 operator of a facility determined to be a Non-Significant Categorical Industrial User
10 pursuant to Ordinance 42, Section 3.nn.3 must annually submit the following
11 certification statement, signed in accordance with the signatory requirements in
12 paragraph l of this section. This certification must accompany any alternative report
13 required by the District:

14 Based on my inquiry of the person or persons directly responsible for managing
15 compliance with the categorical Pretreatment Standards under 40 CFR
16 _____, I certify that, to the best of my knowledge and belief that during the
17 period from _____, _____ to _____,
18 _____ [month, days, year]:

19 (a) The facility described as _____ [facility name] met the
20 definition of a Non-Significant Categorical Industrial User as described in
21 Ordinance 42, Section 3.nn.3;

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

24 (c) the facility never discharged more than 100 gallons of total categorical
25 wastewater on any given day during this reporting period. This compliance
26 certification is based upon the following information:
27
28

29 SECTION 11. EFFECTIVE DATE

30 This Ordinance will be in full force and effect 30 days following its enactment, as provided by
31 law.

1 SECTION 12. SEVERABILITY

2 If any provision of this Ordinance is adjudged or declared to be unconstitutional or invalid by
3 any court of competent jurisdiction, such judgment will not affect the validity of the remaining
4 portions of this Ordinance; and it is hereby declared that every other provision is and shall
5 remain in effect irrespective of the validity of any other provision.

6 SECTION 13. AMENDMENTS

7 Ordinance 27 is amended as follows: delete subsection 10.G, Enforcement of Industrial User
8 Standards through Administrative and Civil Penalties, in its entirety.

9 SECTION 14. REPEAL AND SAVINGS

- 10 a. Resolution and Order 09-01 is repealed.
- 11 b. Any permits, enforcement actions, fees, or other actions undertaken pursuant to
12 Ordinances and Resolution and Orders repealed or amended herein will remain in full
13 force and effect unless expressly repealed, superseded, or amended. All such actions of
14 the District and any enforcement actions undertaken prior to the effective date of this
15 Ordinance will continue under and will be subject to this Ordinance. References in
16 existing District documents to Ordinances and Resolution and Orders repealed or
17 amended herein are to be interpreted as references to corresponding provisions of this
18 Ordinance.

19 SECTION 15. AUTHORIZATION TO CODIFY THIS ORDINANCE

20 District legal counsel is authorized and directed to take such steps as are necessary to codify this
21 Ordinance, including renumbering or correcting technical errors as well as correcting references
22 to the ordinances repealed herein in other District Resolution and Orders provided that no such
23 changes effect the substance of this Ordinance.

1 ENACTED this 1st day of December, 2020, being the date of the
 2 2nd reading and 1st public hearing before the governing body of
 3 Clean Water Services.

CLEAN WATER SERVICES
 By the Board of County Commissioners
 Of Washington County, Oregon
 As its Governing Body

ADOPTED

[Signature]
 Chair Kathryn Harrington

[Signature]
 Recording Secretary

| | | |
|----|-----------------------|----------------|
| | READING | PUBLIC HEARING |
| 16 | First <u>11/17/20</u> | <u>12/1/20</u> |
| 17 | Second <u>12/1/20</u> | _____ |
| 18 | Third _____ | _____ |

19 VOTE: AYE 4 NAY 0

20 RECORDING SECRETARY
 21 [Signature]

22 DATE 12/1/20
 23 Aye - Harrington, Rogers
 24 Treece, Schouten

| | AYE | NAY | ABSENT |
|------------|----------|-------|----------|
| HARRINGTON | <u>✓</u> | _____ | _____ |
| SCHOUTEN | <u>✓</u> | _____ | _____ |
| TREECE | <u>✓</u> | _____ | _____ |
| ROGERS | <u>✓</u> | _____ | _____ |
| WILLEY | _____ | _____ | <u>✓</u> |

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Agenda Category: Action - Second Reading, First Public Hearing, Adoption

Agenda Title: CONDUCT SECOND READING AND FIRST PUBLIC HEARING OF ORDINANCE 42 — AN ORDINANCE PRESCRIBING RULES GOVERNING THE DISCHARGE OF NONDOMESTIC WASTE TO THE PUBLICLY OWNED TREATMENT WORKS OF CLEAN WATER SERVICES; AMENDING ORDINANCE 27 AND REPEALING RESOLUTION AND ORDER 09-01; AND ADOPT ORDINANCE 42

Presented by: Robert P. Baumgartner, Regulatory Affairs Director (jer)

SUMMARY

On March 23, 2020, the Clean Water Services (District) Board of Directors (Board) charged the Clean Water Services Advisory Commission (CWAC) with conducting public outreach to assist the District in drafting an ordinance regulating the discharge of nondomestic waste to the District's sanitary sewage conveyance system.

The District is required by federal law to control discharges to the sanitary sewer system from specified industrial sources. In addition, the District implements a local program to regulate discharges from sources not covered by the federal program. The purpose of both the federal and local programs is to protect the District's infrastructure and treatment processes, its workers, the public and the environment from harmful discharges. The District determined that it needs to revise its current rules, which are incorporated in Ordinance 27 and Resolution and Order 09-01.

The proposed ordinance is based on a template developed by EPA to ensure that local ordinances meet federal requirements, which the District revised to authorize the local aspects of its program. The authorities and regulations in the proposed ordinance include discharge limitations, pretreatment requirements and the regulation of hauled wastes, discharge permits, enforcement and appeals.

(continued)

REQUESTED ACTION

Conduct Second Reading and First Public Hearing of Ordinance 42 — an ordinance prescribing rules governing the discharge of nondomestic waste to the publicly owned treatment works of Clean Water Services; amending Ordinance 27 and repealing Resolution and Order 09-01; and adopt Ordinance 42.

(A copy of the proposed ordinance is hyperlinked here and available at the Clerk's desk.)

ADOPTED

Agenda Item No. 6.a.
Date: 12/01/20

**CONDUCT SECOND READING AND FIRST PUBLIC HEARING OF ORDINANCE 42 — AN ORDINANCE PRESCRIBING RULES GOVERNING THE DISCHARGE OF NONDOMESTIC WASTE TO THE PUBLICLY OWNED TREATMENT WORKS OF CLEAN WATER SERVICES; AMENDING ORDINANCE 27 AND REPEALING RESOLUTION AND ORDER 09-01; AND ADOPT ORDINANCE 42
12/01/20**

The proposed ordinance places these provisions in a single document, updates certain aspects of the ordinance, removes redundancies, and provides the public and regulated entities with clear descriptions of District authorities and processes.

The ordinance continues to identify discharge limitations that prohibit the discharge of wastes that can pass through the treatment plants and into the environment, or that can interfere with treatment processes, or that otherwise disrupt the system. The ordinance also prohibits the discharge of wastes that can cause specified harms (explosion, corrosive damage, blockage, etc.). The discharge limitations apply to all sources of nondomestic waste.

The pretreatment provisions require dischargers to treat their nondomestic wastes as required to comply with District rules and federal standards. This section also regulates the discharge of fats, oils and grease and incorporates federal standards for discharges from dental offices. In addition, wastes from septic tanks and portable toilets and industrial wastes that are hauled to treatment plants rather than discharged via connection to the sewer system are regulated.

The ordinance requires federally designated Significant Industrial Users to obtain permits for their discharges. In addition, the District may require other dischargers to obtain permits to allow the District to recover costs, control flows, or provide oversight and control of discharges. The ordinance also describes permit application procedures, required permit terms, and monitoring requirements, and provides clear processes for permit modification, transfer and renewal.

To provide the District the ability to enforce its rules, the ordinance authorizes monetary administrative penalties, orders, and permit suspension and revocation. The ordinance authorizes the District to perform inspections and provides for appeal of enforcement actions and other District decisions, including pretreatment permit issuance.

ADDITIONAL INFORMATION

Community Feedback: CWAC conducted public outreach as charged. CWAC members, permitted industries, the cities of Beaverton and Hillsboro, Tualatin Hills Park & Recreation District, and the Tualatin Riverkeepers provided comments, which were considered in revising the draft ordinance, or answered in discussions with the commenters. The issues raised by commenters were the sufficiency of the \$5,000 per day per violation penalty to deter noncompliance; setting fats, oils and grease maintenance frequencies; permitting temporary discharges; monitoring the risk from the presence of substances that present a hazard to human life; and regulating the discharge of emerging pollutants. In addition, the ordinance was revised in response to review by DEQ by providing the right to appeal a pretreatment permit. DEQ conditionally approved the ordinance.

Legal History/Prior Board Action: District staff briefed the Board on the pretreatment program at a January 14, 2020, work session. Board charged CWAC with conducting public outreach on March 23, and District staff discussed the ordinance at the October 27 work session. Board heard the first reading of the ordinance November 17 and received a staff report.

Budget Impact: None anticipated.

Budget account: N/A