

CITY OF SAN DIEGO

Industrial Wastewater Control Program

Enforcement Response Plan

Revision -1-

TABLE OF CONTENTS

I. PURPOSE AND SCOPE	3
II. DEFINITIONS	3
III. ENFORCEMENT AUTHORITY	7
IV. APPLYING THE ENFORCEMENT RESPONSE PLAN	7
V. ENFORCEMENT ACTIONS	8
VI. ENFORCEMENT RESPONSIBILITIES	9
VII. INFORMAL ENFORCEMENT PROCEDURES	10
VIII. FORMAL ENFORCEMENT PROCEDURES	12
IX. RESPONSE TIMES	16

APPENDICES

IWCP CIVIL PENALTY POLICY

IWCP ENFORCEMENT RESPONSE TABLE

SAN DIEGO ADMINISTRATIVE CIVIL PENALTIES ORDINANCE

SAN DIEGO SEWER USE ORDINANCE

I. PURPOSE AND SCOPE

The purpose of this plan is to describe and outline enforcement response procedures used to accomplish City of San Diego Industrial Wastewater Control Program (IWCP) goals. Specific objectives are outlined below.

Define the range of enforcement actions based upon the nature and severity of the violation.

Identify appropriate personnel who may initiate various enforcement actions.

Illustrate the various documents that are used to implement the Enforcement Response Plan.

Establish a means of tracking progress towards compliance once enforcement has been initiated.

Promote consistent and timely use of enforcement actions.

Provide a fair and equitable means of enforcing the San Diego Municipal Code.

II. DEFINITIONS (appear in **bold face** throughout this document)

Attachment C - An attachment to the Industrial User Permit which requires the **Industrial User (IU)** to take specific actions by a stipulated due date.

Best Management Practice (BMP) - has the same meaning as in 40 C.F.R. 403.3(e) which means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent discharges prohibited by Municipal Code section 64.0510. **BMPs** also include treatment requirements, operating procedures, and practices to control plan site run off, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. Note: **BMPs** also include alternative means (i.e., management plans) of complying with, or in place of certain established **Categorical Pretreatment Standards** and effluent limits.

Bypass - The intentional diversion of regulated waste streams around an **IU's pretreatment** system.

Categorical Pretreatment Standard, Categorical Standard, National Pretreatment Standard, Pretreatment Standard, or Standard - Has the same meaning as in 40 C.F.R. 403.3(l) which means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act, which applies to **Industrial Users**. This term includes prohibitive discharge limits established pursuant to 40 C.F.R. 403.5.

Dilution - An increase in the use of process water, or any other use of water, as a partial or complete substitute for adequate treatment, to achieve compliance with **pretreatment standards** or requirements.

Full Compliance - No violations of any **pretreatment standards** or **local limits** during a six (6) month period. For the purposes of summarizing **IU** performance in the quarterly or annual report, **full compliance** will be based upon the data gathered during two (2) consecutive calendar quarters.

Indirect Discharge or Discharge - has the same meaning as in 40 C.F.R. 403.3(i) which means the introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c), or (d) of the Act.

Industrial User (IU) - has the same meaning as in 40 C.F.R. 403.3(j) which means a source of **indirect discharge**.

Interference - same meaning as in 40 C.F.R. 403.3(k) which means a **Discharge** which, alone or in conjunction with a discharge or discharges from other sources, both: (1) inhibits or disrupts the **POTW**, its treatment processes or operations, or its sludge processes, use or disposal; and (2) therefore is a cause of a violation of any requirement of the **POTW**'s National Pollutant Discharge Elimination System [NPDES] permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act [SWDA] (including title II, more commonly referred to as the Resource Conservation and Recovery Act [RCRA], and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Local Limit - a numerical limit on a pollutant established by the City Manager to implement the general and specific prohibitions set forth at San Diego Municipal Code section 64.0510. Such limits shall be technically based and shall require EPA and/or the Regional Water Quality Control Board approval prior to implementation.

Minor Violation - A violation incurred by a **non-SIU** for failing to submit required **BMP** requirements

Non-SIU – does not meet the criteria for a **SIU**; referred to as an Enhanced Source Control **IU** by IWCP.

Pass Through - Has the same meaning as in 40 C.F.R. 403.3(p) which means a **Discharge** which exits the **POTW** into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the **POTW**'s NPDES permit (including an increase in the magnitude or duration of a violation).

Pretreatment – Has the same meaning as 40 C.F.R. 403.3(s) which means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in **wastewater** prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 C.F.R 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where **wastewater** from a regulated process is mixed in an equalization facility with unregulated **wastewater** or with **wastewater** from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 C.F.R 403.6(e).

Pretreatment Requirement - has the same meaning as in 40 C.F.R. 403.3(t) which means any substantive or procedural requirement related to **Pretreatment**, other than a **National Pretreatment Standard**, imposed on an **IU**.

Publicly Owned Treatment Works (POTW) - Has the same meaning as in 40 C.F.R. 403.3(q) which means treatment works as defined by section 212 of the Act, which is owned by a State or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey **wastewater** to a **POTW** Treatment Plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the **Indirect Discharges** and the discharges from such treatment works.

Reportable Spill - **IUs** must notify IWCP of all disposals that could cause problems to the **wastewater system** or endanger the health and safety of the public or the environment, immediately after becoming aware of the condition. This includes **slug discharges** that would violate any of the specific prohibitions in their permit or the San Diego Municipal Code §64.0510. The **IU** must also submit a written report to IWCP within five (5) calendar days of becoming aware of the condition, which details the nature, volume, time and duration of disposal, steps taken to mitigate the disposal, and preventative measures to avoid future such occurrences.

IUs must notify IWCP of any **slug discharge** that would violate a specific limitation in the permit but not cause problems for the **wastewater system** or violate any of the specific prohibitions, within twenty-four (24) hours of becoming aware of the violation. Additionally, if the violation was identified by self-monitoring, the **IU** must repeat the sampling and analysis for all required parameters and submit the results to IWCP within thirty (30) days of becoming aware of the violation as described in San Diego Municipal Code §64.0506(c).

Significant Industrial User (SIU) - An **SIU** has the same meaning as in 40 C.F.R. 403.3(v) which means:

- (1) All **IUs** subject to federal **Categorical Pretreatment Standards** under 40 C.F.R. 403.6 and 40 C.F.R chapter I, subchapter N; or
- (2) Any other **IU** that: (i) discharges twenty-five thousand (25,000) gallons per day or more of process **wastewater** (excluding sanitary, non-contact cooling and boiler blowdown **wastewater**); (ii) contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the **POTW** treatment plant; or (iii) is designated as such by the IWCP as defined in 40 C.F.R 403.3(f) on the basis that the **IU** has a reasonable potential for adversely affecting the **POTW's** operation or for violating any **pretreatment standard** or requirement (in accordance with 40 C.F.R. 403.8(f)(6)).

Significant Non Compliance (SNC) - Has the same meaning as in 40 C.F.R. 403.8(f)(2)(viii) which means a **Significant Industrial User** (or any **IU** which violates 40 C.F.R. 403.8(f)(2)(viii)(C), (D), or (H)) if its violation meets one or more of the following criteria:

- A) Sixty-six percent (66%) or more of all measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric **Pretreatment Standard** or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

- B) Thirty-three percent (33%) or more of all measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric **Pretreatment Standard** or Requirement, including instantaneous limits multiplied by the applicable Technical Review Criteria (TRC) factor (TRC = 1.4 for oil & grease, and 1.2 for all other pollutants except pH);
- C) Any other violation of a **pretreatment standard** or requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative **Standard**) that IWCP determines has caused, alone or in combination with other **discharges, interference** or **pass through** (including endangering the health of sewage treatment personnel or the general public);
- D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the **POTW's** exercise of emergency authority, under 40 CFR 403.8(f)(1)(vi)(B), to halt or prevent such a discharge;
- E) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone in a permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F) Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G) Failure to accurately report noncompliance;
- H) Any other violation or group of violations, which may include a violation of **Best Management Practices**, which IWCP determines will adversely affect the operation or implementation of the **Pretreatment** program.

Pursuant to 40 CFR 403.8(f)(2)(viii), IWCP will publish in one or more newspapers of general circulation that provide meaningful public notice within the area serviced by the **wastewater system**, the names of all **SIUs** who, at any time during the previous calendar year, were in **SNC** with applicable **pretreatment** requirements.

Slug Discharge - a wastestream of a non-routine, episodic nature, including but not limited to an accidental spill or an uncustomary batch discharge, which could cause **interference, pass through**, or adversely affect the operation or maintenance of the **wastewater system**, or in any other way violate the POTW's regulations, **local limits**, or permit conditions.

Wastewater - Means water that is no longer useful and has been or is in the process of being discarded, including liquid and water carried waste and sewage from residential property, commercial buildings, industrial and manufacturing facilities and institutions.

Wastewater System - treatment works which is owned or operated by the City, or operated under contract with the City, including any facilities involved in recycling **wastewater** to standards suitable for irrigation or potable reuse, and any facilities generating renewable energy from the byproducts of **wastewater** treatment or disposal. Sewer pipes, pump stations, and related facilities are included only if they convey **wastewater** to or from a **POTW** treatment plant.

III. ENFORCEMENT AUTHORITY

The sewer use ordinance is Chapter 6, Article 4 of the San Diego Municipal Code (“Municipal Code”). Division 3 of this Article provides for enforcement and penalties against **IUs** who fail to comply with the requirements of the sewer use ordinance. Chapter 1, Article 2, Division 8, Section 12.0803 of Municipal Code, provides that any person violating any provision of the Municipal Code or applicable state code may be subject to administrative civil penalties pursuant to the administrative procedures provided in Sections 12.0804 through 12.0810 of this Division. Council Approval establishes that additional inspecting and sampling caused by permit violations shall be recovered at a cost basis plus overhead.

IWCP personnel have the authority to enter and inspect every facility involved with **wastewater** disposal to the **wastewater system**. Access shall be given at all reasonable times to all parts of the premises, for the purposes of inspection, sampling, and record examination. The procedures used to identify **IUs**, identify the character and volume of pollutants, and notify **IUs** of applicable **pretreatment standards** are described in the IWCP's *Program Structure Report* submitted to EPA and the California RWQCB in May 1994.

IV. APPLYING THE ENFORCEMENT RESPONSE PLAN

The enforcement response plan designates several alternative enforcement options for each type (or pattern) of noncompliance. Once an event has occurred, IWCP shall select an appropriate response from those options. Selection will be based upon the following criteria:

(1) Good Faith of the **Industrial User**

If the **IU** attempts, in good faith, to comply with **pretreatment requirements**, enforcement actions should be on a more cooperative basis. The **IU** can demonstrate good faith with prompt responses to IWCP requests, consistent attention to permit conditions and reporting requirements, aggressive investigation and correction of violations, and a willingness to invest resources to satisfy **pretreatment requirements**.

(2) Compliance History of the **IU** and Prior Success of Enforcement Actions

The **IU's** monitoring and compliance history shall be reviewed before initiating enforcement action. A violation occurs whenever an **IU** exceeds an applicable effluent limit; fails to meet deadlines and conditions for reporting, monitoring, or treatment; or fails to comply with any other Federal, State, or IWCP requirement. The effectiveness of previous enforcement responses for this type of violation should also be considered. More severe enforcement actions shall be taken against **IUs** that frequently exceed **pretreatment standards** than those that report inconsequential, isolated violations.

(3) Aggravated Violations

Violations that cause **interference** with treatment plant performance, **pass through** of pollutants, damage to the **wastewater system**, or harm to human health or the environment shall be addressed through formal enforcement action and penalties as described in San Diego Municipal Code 64.0310. In some cases injunctive measures may also be appropriate. This includes any disposal which causes a violation of the **wastewater system's** National Pollution Discharge Elimination System (NPDES) permit or failure to use reclaimed water as required by the City Manager

pursuant to San Diego Municipal Code Chapter 6, Article 4, Division 8 is a public nuisance subject to injunction, abatement, and penalties pursuant to San Diego Municipal Code Chapter 1, Article 2.

(4) Magnitude and Duration of the Violation

Violations that meet the EPA definition of **SNC** and those (regardless of magnitude or severity) which continue over prolonged periods of time should also be addressed through an escalated response. For example, an effluent violation which occurs in two out of three samples over a six month period or a report which is more than thirty days late is considered significant, while a report which is two days late would not be deemed significant.

V. ENFORCEMENT ACTIONS

The enforcement actions available to IWCP have been divided into two (2) main categories: informal and formal. Informal enforcement is generally less severe. Formal enforcement can involve penalties and/or termination of service. The Enforcement Response Plan establishes the enforcement actions that are appropriate in particular circumstances. In general, IWCP will respond to an initial **IU** violation of a **pretreatment requirement** with an informal enforcement action: typically, a Notice of Violation (NOV) and increased monitoring. If the violation(s) persists, the informal response may escalate to a compliance inspection and/or Preliminary Conference, and/or a formal response initiated, typically a compliance order. Violations that are more severe and/or involve intent can be escalated directly to formal enforcement. All enforcement related **IU** correspondence is sent certified mail to the **IU's** business address, served by personal delivery. The enforcement actions are listed here in order of increasing severity to indicate escalating enforcement.

Informal

- Attachment C** compliance schedule
- Field observation/notice
- Email/phone NOV (only for **BMP** requirements)
- NOV and associated administrative fees
- Noncompliance sampling and associated administrative fees
- Surveillance monitoring
- Compliance inspection
- Preliminary Conference

Formal

- Compliance Order
- Administrative Notice and Order (Penalty Order)
- Civil Action
- Show Cause Hearing
- Permit Revocation
- Suspension or Termination of Service
- Criminal Action

VI. ENFORCEMENT RESPONSIBILITIES

Effective enforcement depends on the performance of a variety of individuals. The following list identifies the staff positions and their areas of responsibility.

Sampling Laboratory Technician:

- (1) Conducts site sampling to ensure compliance
- (2) Conducts field analyses
- (3) Issues Field Notices

Wastewater Pretreatment Inspector:

- (1) Documents all incidents with potential for formal or informal enforcement action identified during the facility inspection.
- (2) Recommends and tracks specific requirements for the **IU** be established in an **Attachment C** of the **IU** Permit.
- (3) Conducts site inspections to evaluate and verify completion of **Attachment C** or other permit requirements.
- (4) Conducts compliance inspections to verify permit conditions or Compliance Orders requirements.
- (5) Reviews **IU** self-monitoring reports to identify daily maximum violations and incomplete reports each month.

Wastewater Pretreatment Inspector III:

- (1) Conducts compliance inspections to verify permit conditions or Compliance Orders requirements.
- (2) Attends Preliminary Conferences and prepares necessary documentation including a report, a Conference summary letter and/or a Compliance Order, if required.
- (3) Identifies late **IU** self-monitoring reports and reviews **IU** self-monitoring reports to identify daily maximum violations and incomplete reports.
- (4) Reviews weekly, the IWCP analysis results data and identifies instantaneous maximum, daily maximum, periodic average limit violations.
- (5) Identifies violations of periodic average limits at the end of each calendar quarter.
- (6) Prepares a summary compliance history for each **SIU** in **SNC** after all the data has been evaluated for the year, for publication in the IWCP Annual Industrial **Pretreatment** Report.
- (7) Publishes the names of all **SIUs** in **SNC** during the past year in the local newspaper.

Supervising Wastewater Pretreatment Inspector:

- (1) Initiates and tracks informal enforcement actions, **Attachment C** requirements, Compliance and Penalty Orders.
- (2) Reviews **IU** responses to informal enforcement actions, **Attachment C** requirements, Compliance and Penalty Orders.
- (3) Coordinates compliance and surveillance monitoring with sampling laboratory technicians.
- (4) Conducts Preliminary Conferences and participates in complex compliance inspections.
- (5) Generates the **IU** Compliance Status Report and annual list of **IUs** in **SNC**.
- (6) Refers all **IUs** with potential for civil/criminal action to the San Diego County Hazardous Waste Task Force.
- (7) Participates as a member of the San Diego County Hazardous Waste Task Force.

Pretreatment Program Manager:

- (1) Approves and signs Compliance Orders.
- (2) Presides at Show Cause hearings.
- (3) Participates as a member of the San Diego County Hazardous Waste Task Force.

Unclassified Program Manager:

- (1) Approves of Show Cause Hearing, Permit Revocation, and Suspension or Termination of Service.
- (2) Signs Penalty Orders.
- (3) Participates as a member of the San Diego County Hazardous Waste Task Force.

City/District/US Attorneys:

- (1) Participates as a member of the San Diego County Hazardous Waste Task Force.
- (2) Initiates criminal and/or civil action upon referral.

VII. INFORMAL ENFORCEMENT PROCEDURES

Attachment C Compliance Schedules

If at any time subsequent to the issuance of a permit, new Federal, State or local standards are adopted such that the permit must be amended or renewed and the **IU** cannot maintain compliance with existing practices or technology, IWCP may require the **IU** to install additional **pretreatment** equipment and/or adopt waste minimization practices to comply with the new standards. The requirement to submit a **pretreatment** proposal, subject to IWCP approval, may be issued as an **Attachment C** requirement in a permit amendment or renewal. The proposal shall include a description of the equipment and/or procedures including: cost information; a schedule for equipment purchase, installation, testing, and final implementation; a flow process diagram; and an interim solution, if applicable.

If approved, the **IU** shall be required to submit progress reports on the proposal's implementation including, at a minimum, for each date in the schedule: whether or not it complied with the increment of progress to be met on such a date and, if not, the date on which it expects to comply with this increment of progress; the reason for the delay; and the steps being taken by the **IU** to return to the established schedule. If rejected, an NOV may be issued requiring the **IU** to modify or complete the proposal.

Compliance schedules issued in response to violations of permit standards or provisions of the City ordinance shall be made by a Compliance Order. Other **IU** requirements which may be established in an **Attachment C** include: installation/modification of a sample point; protection of drains against spills; reduction of rainwater intrusion; and submission of **pretreatment** operation and maintenance procedures and logs, **slug discharge** control plans, or other documents necessary for complying with the permit.

Field Observation/Notice

A Wastewater Pretreatment Inspector or Sampling Laboratory Technician shall issue a field observation/notice during a facility inspection when one or more of the following conditions have been observed:

- (1) Facility access denied;
- (2) IWCP autosampler tampering;
- (3) **Pretreatment** system **bypass** of industrial **wastewater** requiring **pretreatment**;
- (4) Unauthorized alteration of a designated sampling point or diversion of **wastewater** from the sampling point which causes the sample to be nonrepresentative;
- (5) Process or sample point **dilution** (e.g., a water hose placed in the sample point);
- (6) Failure to operate or properly maintain the **pretreatment** system while discharging industrial **wastewater** requiring **pretreatment**;
- (7) Failure to disclose all industrial **wastewater** disposal points;
- (8) Failure to submit all self-monitoring results;
- (9) Unauthorized disposal of industrial **wastewater**;
- (10) Misrepresentations or false statements.

The inspector shall document the circumstances and evidence supporting the observation; forward the field observation/notice to the Supervising Wastewater Pretreatment Inspector for immediate review. The Supervising Wastewater Pretreatment Inspector shall determine whether escalation to formal enforcement is warranted. If not, an NOV may be issued or other informal enforcement action initiated.

Email/phone NOV

For a **minor violation** only, the Wastewater Pretreatment Inspector shall notify the **IU** by email or phone of the violation.

Notice of Violation

A NOV is a written notice, issued under the signature of the Supervising Wastewater Pretreatment Inspector, which identifies the violation, orders the **IU** to abate the violation(s), and states what additional **IU** actions are required, if any, by a specified due date. Typical actions include: investigate the violation(s) and submit a report of causes and steps taken to prevent recurrence; resample the **wastewater** and submit a self-monitoring report; attend a Preliminary Conference; complete the outstanding **Attachment C** requirements, or submit other required information. The **IU** shall be assessed an administrative fee to recover the cost associated with issuing, tracking, and resolving the violation.

The Supervising Wastewater Pretreatment Inspector shall review all violation responses. Where specific actions are proposed or have been completed, the Supervising Wastewater Pretreatment Inspector shall issue a field referral or assign a compliance inspection to a Wastewater Pretreatment Inspector, who will verify and assess compliance. The inspector may amend the current permit or issue a follow-up letter with additional requirements.

Noncompliance Sampling

The Wastewater Pretreatment Inspector shall generate additional monitoring requests for the Sampling Laboratory Technician following the identification of pollutant violations. The **IU** shall be assessed fees to recover the associated costs of sampling and analyses. For most pollutants violations up to three (3) additional monitoring requests will be generated. For discrete grab pH violations these additional monitoring requests will be scheduled as field grabs for batch discharges, and for non-batch discharges as 24-hour continuous pH monitoring events.

Compliance Inspection

A compliance inspection of the **IU's** facility may be conducted under the following circumstances:

- (1) the **IU** notifies IWCP that they have made **pretreatment** system upgrades or operational changes in response to a NOV;
- (2) the **IU** fails to respond to a NOV or submits a response which does not adequately address the violation;
- (3) the **IU** is or is likely to be in **SNC** status at the end of the calendar quarter.

The inspection shall be conducted by the Wastewater Pretreatment Inspector, who may be accompanied by a Sampling Laboratory Technician, and/or the Supervising Wastewater Pretreatment Inspector. The inspection report shall contain a detailed description of facility operations and wastewater controls, and a summary of findings and conclusions. Based upon the substance of the report and recommendations of the Wastewater Pretreatment Inspector, the Supervising Wastewater Pretreatment Inspector may approve the issuance of a Compliance Order. Otherwise, the Supervising Wastewater Pretreatment Inspector may wait for additional monitoring results to determine whether the **IU** will return to **full compliance** status.

Preliminary Conference

A Preliminary Conference may be scheduled in response to one or more of the following:

- (1) two or more reporting violations (e.g. late, incomplete or incorrect reports) within two consecutive calendar quarters;
- (2) failure to report a spill or **slug discharge** in violation of permitted conditions;
- (3) failure to submit all self-monitoring results;
- (4) failure to provide timely access after first documented warning;
- (5) the **IU's** monitoring or compliance history warrants an informal meeting to discuss and establish the cause(s) of the violations and actions taken to prevent future violations;
- (6) discovery of an unauthorized disposal to the **wastewater system**;
- (7) issuance of a Compliance Order.

The **IU** shall be notified of the Conference through an NOV, which shall specify the date, time, and location of the meeting. Any **IU** that fails to appear shall be contacted to reschedule the Conference. The Conference shall be conducted by the Supervising Wastewater Pretreatment Inspector. The Wastewater Pretreatment Inspector shall write a report summarizing the meeting and, if necessary, a findings letter which is issued under the signature of the Supervising Wastewater Pretreatment Inspector. At the Conference, the **IU** representative(s) shall be asked to respond to and provide an explanation for the violations, and describe the actions taken or planned to prevent recurrence. The Supervising Wastewater Pretreatment Inspector shall explain the possible formal enforcement actions that may apply if the **IU** does not establish compliance. The **IU** shall be assessed an administrative fee to recover the cost associated with each Conference, including those at which the **IU** failed to appear.

VIII. FORMAL ENFORCEMENT PROCEDURES

Compliance Order

A Compliance Order may be issued after the determination that the **IU** is in **SNC** status for the year, based on more than one sampling event, and either conducting a compliance inspection or Preliminary Conference. The Compliance Order is issued under the signature of the Pretreatment Program Manager and states the legal authority under which the order is issued, the findings of violation, and

directs the **IU** to take specific actions by established due dates. These typically include the following:

- (1) Within 30 days, respond to any inaccuracies of fact in the Findings of Violation;
- (2) Within 60 days, submit a preliminary engineering plan outlining the steps necessary to maintain compliance with permitted limits;
- (3) Within 90 days, either cease disposal of industrial **wastewater** to the **wastewater system** or take any necessary corrective actions to achieve consistent compliance; and
- (4) Within 90 days, submit financial information regarding **pretreatment** system costs and operation and maintenance (O&M) expenses.

Administrative Notice and Order

Administrative penalties are authorized under Sections 64.0310 and 12.0801 through 12.0810 of the Municipal Code for violations of any provision of the sewer use ordinance. The maximum amount that can be imposed is twenty-five hundred dollars (\$2,500) per day per violation and one hundred thousand dollars (\$100,000) for any related series of violations. For continuing violations, each day constitutes a separate offense.

Use of a Penalty Order may be appropriate under the following conditions:

- (1) the **IU** realized economic benefit during the period of noncompliance;
- (2) the **IU** is in **SNC** status;
- (3) the **IU** violates a Compliance Order.

The Penalty Order is issued under the signature of the Unclassified Program Manager and states the legal authority under which the order is issued, the findings of violation, the total civil penalties. These typically include the following:

- (1) Within 30 days, respond to any inaccuracies of fact in the Findings of Violation;
- (2) Within 60 days, pay a civil penalty;
- (3) At the end of following year, pay a civil penalty at a specified daily penalty rate for each addition day of violation incurred subsequent to the Penalty Order.

The **IU** may appeal a Penalty Order by filing a written request for a hearing within ten (10) calendar days from the date of service. The request shall set forth, in detail, all the issues in dispute for which the **IU** seeks a determination and all the facts supporting the request. Upon receiving the written request to appeal the Notice and Order, the IWCP Manager shall request the Mayor to appoint a Hearing Officer, and schedule a date, time, and place for a hearing. All provisions of the Notice and Order shall be stayed until such time as the Hearing Officer issues an order, unless the Program Manager concludes that an imminent threat to the public's health and safety exists.

Written notice of the time and place of the hearing shall be served at least ten (10) calendar days prior to the date of the hearing. At the hearing, the **IU**, its agent, or any other interested person may present testimony or evidence on the following issues: the existence of the violations; the duration, frequency or recurrence, seriousness, and history of the violations; the **IU's** conduct after issuance of the Penalty Order; any good faith efforts by the **IU** to comply; the economic impact of the penalty on the **IU**; the impact of the violation on the community; and any other factors that justice may require.

The Hearing Officer shall only consider evidence that is relevant to the following issues:

- (1) whether the **IU** caused or maintained a violation of the Municipal Code that specified in this Notice and Order;
- (2) whether any penalty assessed is consistent with San Diego Municipal Code Section 12.0805 and is reasonable; and
- (3) whether the requirements in the Notice and Order are

reasonable. Once all the evidence and testimony are considered, the Hearing Officer shall issue an Administrative Enforcement Order which affirms, rejects, or modifies the terms of this Notice and Order. The Hearing Officer's decision is the final administrative decision and shall become effective upon the date of service of the Administrative Enforcement Order.

If the **IU** is located in a Participating Agency, the Unclassified Program Manager or designee may commence informal or formal enforcement procedures against a delinquent **IU**. If City issues formal enforcement to an **IU** in a Participating Agency's jurisdiction, City shall carbon-copy that Participating Agency on the letter or transmission delivering the Compliance Order to the **IU** in order to ensure the Participating Agency receives notice that formal enforcement procedures have commenced in its jurisdiction.

Civil Actions

The City has the authority to file suit against alleged violators of applicable **pretreatment standards** and seek injunctive relief, compliance, civil penalties and/or damages as provided under the Municipal Code. Generally, civil litigation is an appropriate enforcement response in two (2) situations:

- (1) emergency situations where it is necessary to halt or prevent disposal to the **wastewater system** which threaten human health or the environment, or may cause **interference** of the **wastewater system**;
- (2) when efforts to restore compliance through cooperation with the **IU** have failed and action is necessary to enforce Program requirements.

Upon approval by the Unclassified Program Manager, the Supervising Wastewater Pretreatment Inspector shall collect any information necessary to support the violations at issue and present such information to the City Attorney.

Show Cause Hearing

A Show Cause Hearing may be appropriate when the **IU** violates an ordinance provision, permit condition, or Compliance Order which warrants permit revocation. An NOV shall require the **IU** to attend a hearing before the Pretreatment Program Manager to "show cause" why IWCP should not revoke the **IU** Permit. The notice shall specify the time, date, and place of the hearing. The Pretreatment Program Manager shall review the enforcement policies and authority for permit revocation and state the grounds for the proposed action. The **IU** has the burden of proof to show why permit revocation is inappropriate or unnecessary.

The Wastewater Pretreatment Inspector shall write the hearing report which shall include: the names and titles of those present; a description of the proposed enforcement action; a summary of the grounds for such action; and a summary of the **IU's** position. Upon review of the evidence presented, the Unclassified Program Manager may initiate permit revocation.

Permit Revocation

Permit revocation may be appropriate under the following circumstances:

- (1) the **IU** fails to accurately report its **wastewater** pollutants and/or characteristics, changes in process operations, and/or other relevant information required to issue the permit;
- (2) the **IU** fails to provide reasonable access to the premises for sampling, monitoring, inspections and/or investigations by IWCP personnel;
- (3) the **IU** fails to install required **pretreatment** equipment, develop required O&M procedures, or install necessary controls to mitigate or prevent unauthorized disposal to the **wastewater**

system;

- (4) the **IU** fails to provide required reports;
- (5) the **IU** fails to report a **reportable spill**;
- (6) the **IU** violates any other condition of the permit.

In general, permit revocation is appropriate when the **IU** has failed to "show cause" why the permit should not be revoked (see Show Cause Hearing section above). The notice shall state the permit revocation date and justification for such action, and shall be issued under the signature of the Unclassified Program Manager. The notice shall also state whether termination of service shall be concurrent with, or subsequent to the permit revocation date.

Should the condition which caused permit revocation be satisfactorily resolved before the effective date, the Unclassified Program Manager may postpone the revocation date to allow the **IU** to demonstrate **full compliance**; however, violations incurred during this period may subject the **IU** to administrative penalties and/or other enforcement actions in addition to permit revocation.

Before a permit revocation notice is delivered to an **IU** in a Participating Agency's jurisdiction, the City shall contact that Participating Agency to discuss, and if necessary, coordinate termination of the **IU's** services. City and the Participating Agency shall work together in identifying a termination of services date before City delivers a permit revocation notice to the **IU**.

Termination of Service

A notice of termination shall state the date of and reasons for termination of **wastewater** service and shall be issued under the signature of the Unclassified Program Manager (see Permit Revocation section above). Upon issuing this notice, IWCP may physically terminate or suspend sewer service to any property within the San Diego service area. IWCP shall coordinate with the Participating Agencies for termination of service for **IUs** within their respective areas.

Termination of service may be implemented voluntarily by the **IU** or on a fee basis by IWCP and/or contract agency staff. All costs for termination and reinstating sewer service shall be paid by the **IU**.

Criminal Actions

Any person who violates a provision of the sewer use ordinance, a permit, or a Compliance or Penalty Order, or is suspected of the same, may be investigated and referred for potential criminal prosecution. Such person may be subject to statutory penalties, including fines and/or imprisonment, as provided under Municipal, State, and Federal codes. The following factors should be considered when determining which violations should be investigated and referred for potential criminal prosecution:

- (1) willfulness of the violation;
- (2) knowledge of the violation;
- (3) nature and seriousness of the offense;
- (4) need for deterrence;
- (5) compliance history of the violator;
- (6) adequacy of the facts;
- (7) other remedies available through civil or administrative enforcement actions.

The Supervising Wastewater Pretreatment Inspector shall collect sufficient information to support the violations at issue. Upon approval by the Unclassified Program Manager, a referral shall be made to the San Diego County Hazardous Waste Task Force.

Examples of violations for which referral for criminal prosecution may be appropriate include:

- (a) **Dilution** of **wastewater** and/or **IU** self-monitoring **wastewater** samples;
- (b) **Bypass** of required **pretreatment** equipment unless: (i) **bypass** is unavoidable to prevent loss of life, personal injury, or severe property damage; or (ii) there were no feasible alternatives to **bypass**, such as the use of auxiliary treatment or holding tanks;
- (c) Construction and/or use of unauthorized or illegal sewer connections;
- (d) Unauthorized disposal of process tanks and/or chemical tanks to the **wastewater system**;
- (e) Disposal of prohibited material to the **wastewater system**;
- (f) Denial of reasonable access to IWCP personnel to conduct inspections, investigations, or to collect representative **wastewater** samples;

In addition, any person who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to the ordinance or **IU** Permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under the ordinance, may be investigated and referred for potential criminal prosecution. Examples of these violations are as follows:

- (a) Falsifying permit application information, self-monitoring reports, compliance reports or other required documents pertinent to the **IU's** compliance with its permit.
- (b) Tampering with automatic sampling equipment set up at the designated sampling point.
- (c) Tampering with sample contents and/or design of the designated sampling point.
- (d) Misrepresenting disposal events or **wastewater** processes to an inspector investigating a **slug loading**.

IX. RESPONSE TIMES

The typical response times for various enforcement actions are listed below:

Enforcement Fees

IWCP shall assess the **IU** a fee within ninety (90) days of issuing a NOV.

Administrative Notice and Order

Penalty Orders shall be issued within thirty (30) days after determining that it is the appropriate response, typically within sixty (60) days of receiving the **IU's** financial information required by a Compliance Order. If the **IU** appeals the Penalty Order, a hearing will be scheduled within thirty (30) days of the request. If an agreement is reached, a meeting will be held with a Hearing Officer within thirty (30) days to sign the Stipulation for Administrative Enforcement Order. If the parties cannot agree, a hearing will be scheduled with a Hearing Officer within ninety (90) days.

Attachment C Compliance Schedules

An NOV shall be issued within thirty (30) days of determining that an **IU** has failed to notify the IWCP of completion of an **Attachment C** requirement by the due date. When an **IU** is required to submit a proposal, the Supervising Wastewater Pretreatment Inspector shall issue a notice of acceptance or rejection, within sixty (60) days of receiving the proposal. An acceptance letter shall require the **IU** to submit progress reports at intervals not exceeding ninety (90) days. A rejection letter shall require the **IU** to modify or complete the proposal within thirty (30) days.

Civil or Criminal Action

A referral for case development and possible prosecution shall be made within sixty (60) days of a determination that it is the appropriate response.

Compliance Order

A Compliance Order shall be issued within sixty (60) days after determining that it is the appropriate response.

Compliance Inspection

A compliance inspection shall be conducted within thirty (30) days of a determination that it is the appropriate response.

Field Notice

A field notice shall be issued during the facility inspection after observation of a violation.

Non-compliance sampling fees

IWCP shall bill the **IU** for the sampling and analytical costs associated with violation monitoring within sixty (60) days of the date the results are released.

NOVs for Pollutant Violations

A NOV will be issued to the **IU** within fourteen (14) days of a determination that there is a violation. Additionally, the Supervising Wastewater Pretreatment Inspector shall schedule the Sampling Laboratory Technician to resample the **IU** within thirty (30) days of identifying the violation. **SIUs** will typically be resampled three (3) additional times within sixty (60) days from the date that the violation was identified.

If self-monitoring by the **IU** indicates a pollutant violation, the **IU** must: (i) notify IWCP of the violation within twenty-four (24) hours of becoming aware of the violation; (ii) repeat the sampling and analysis for all required pollutants within thirty (30) days of becoming aware of the violation; and (iii) submit the analytical results. An NOV will be issued within twenty-one (21) days of reviewing the **IU** self-monitoring report. The Supervising Wastewater Pretreatment Inspector may also schedule one or more sampling events within sixty (60) days from the date that the violation is reported.

NOVs for Reporting Violations

IU self-monitoring reports are due on the fifteenth (15th) of the month. IWCP staff shall enter the data and review the reports for completeness by the end of the month. Late reports will be identified as delinquent by the 25th of the month.

An NOV for a late self-monitoring, baseline monitoring, or other compliance report will be issued within fourteen (14) days of the report due date.

An NOV for an incomplete or incorrect **IU** self-monitoring report will be issued within twenty-one (21) days of the determination that the report is deficient. The **IU** will be required to correct the error(s) on future reports.

Permit Revocation

Notice of permit revocation will be issued within sixty (60) days of a determination that it is the called for response.

Preliminary Conference and Show Cause Hearing

A Preliminary Conference or Show Cause Hearing shall be conducted by IWCP within forty-five (45) days of a determination that it is the appropriate response. An NOV scheduling the meeting will be issued at least seven (7) days before the meeting.

Phone/Email/phone NOV

An email or phone call shall be made to the **IU** within fourteen (14) days of a determination that a **minor violation** has occurred.

Termination of Service

Disconnection of any industrial sewer connection shall be made within sixty (60) days of a determination that it is the appropriate response. The City Manager may immediately terminate wastewater service upon written notice if the discharge of **wastewater** presents an imminent danger to the environment, the health, safety, or welfare of the public, or the operation of the **wastewater system**. Such an immediate termination of **wastewater** service shall remain in effect at least until the conclusion of a hearing held pursuant to Chapter 1, Article 2, Division 4 of this Code.

APPENDICES

IWCP CIVIL PENALTY POLICY

INTRODUCTION

Pursuant to the authority provided by the San Diego Municipal Code (“Municipal Code”), the City Manager has adopted the following penalty policy to promote the enforcement goals of the Industrial Wastewater Control Program (“IWCP”). The purpose of this policy is to (1) deter potential violators, (2) provide fair and equitable treatment of the regulated community, (3) facilitate swift resolution of environmental problems, and (4) remove the economic benefit that an industrial user gains by not complying with the Municipal Code.

The policy is intended as a guide, to be used when implementing the administrative Notice and Order procedure of the Municipal Code. The policy does not create any rights or obligations nor should it be used or relied upon by non-City personnel for any purpose. The City of San Diego reserves the right to act at variance with this policy and to change it at any time without public notice.

AUTHORITY

Chapter 1, Article 2, Division 8 of the Municipal Code governs the administrative assessment of civil penalties for violations of the Municipal Code and applicable state codes.

Municipal Code section **12.0803(c)** provides that civil penalties may be directly assessed by means of a Notice and Order issued by a Director or affirmed by a City Manager’s Enforcement Hearing Officer.

Municipal Code section **12.0803(d)** provides that civil penalties for violations of any provision of the Municipal Code or applicable state codes shall be assessed at a daily rate determined by the Director or Enforcement Hearing Officer pursuant to the criteria listed in section 12.0805. The maximum rate shall be \$10,000 per violation. The maximum amount of civil penalties shall not exceed \$400,000 per parcel or structure for any related series of violations.¹

Municipal Code section **12.0805(d)** provides that the City Manager has the authority to establish a penalty schedule for the Director to use as a guideline in determining the amount of civil penalties in appropriate cases. The Manager shall also establish procedures for the use of this penalty schedule.

SEEKING PENALTIES

The IWCP may seek administrative civil penalties for a single **Pretreatment** violation. In general, however, the IWCP will seek administrative civil penalties under the following circumstances:

- 1) The Industrial User has incurred two or more violations within a ninety day period.
- 2) The Industrial User is in **Significant NonCompliance (SNC)** with applicable **Pretreatment** requirements, as defined in 40 CFR 403.8(f)(2)(viii).
- 3) The Industrial User has failed to comply with an Administrative Order.
- 4) Failure to monitor correctly in two or more consecutive events.

¹Total penalties shall not exceed \$250,000 per parcel or structure for any related series of violations. See Municipal Code § 12.0803(d).

5) **Dilution** in lieu of treatment.

DETERMINATION OF PENALTY

I. Pollutant Violations

Penalties for pollutant violations will be computed by summing the economic benefit² realized by delaying or avoiding compliance and a gravity component based on three factors. At a minimum, the penalty should recover the full economic benefit component of noncompliance including the costs of installation and operation and maintenance of **Pretreatment** equipment. The factors used to determine the gravity component are: (1) the magnitude of the violation (2) whether the violation indicates the disposal can be characterized as a hazardous waste³ due to its corrosivity and (3) the Industrial User's average flow. The IWCP believes that consideration of the economic benefit of noncompliance and these gravity factors provides a predictable and equitable method for assessing civil penalties.

To determine the gravity component a separate calculation is performed for each violation. The formulas for the two limit types represent a base amount multiplied by the sum of the factors:

Daily maximum limit violations: \$ Penalty = \$100 x (A+B+C)

Monthly average limit violations: \$ Penalty = \$100 x (A+B+C) x # of days of disposal

A. Magnitude of the Violation

<u>Value</u>	<u>Factor</u>
< TRC factor ⁴ x limit	1
≥ TRC factor x limit	3

B. Corrosivity of the Wastewater

<u>pH</u>	<u>Factor</u>
≤ 2.0	3
≥ 12.5	3

C. Average Daily Flow

<u>Disposal (gpd)</u>	<u>Factor</u>
< 500	1
500 – 2,500	2
2,501 – 10,000	3
> 10,000	4

²Economic benefit is calculated with the EPA's BEN computer model.

³In general, a waste is "hazardous" if it exhibits a characteristic of ignitability, corrosivity, reactivity, or toxicity. See Cal. Code Regs. title 22, §§ 66261.21-66261.24. For the purposes of regulation under the Clean Water Act, the IWCP does not sample an industrial user's wastewater to determine if it is hazardous. However, because the IWCP does regulate the wastewater's pH and wastewater exhibits the hazardous waste characteristic of corrosivity if it has a pH less than or equal to 2 or greater than or equal to 12.5, the IWCP can determine whether a violation sample is hazardous due to its corrosivity. See Cal. Code Regs. title 22, § 66261.22.

⁴The applicable TRC (Technical Review Criteria) factor is 1.4 for BOD, TSS, oil&grease, and 1.2 for all other pollutants except pH. See 40 C.F.R. §403.8(f)(2)(viii)(B).

The total civil penalty is equal to the sum of the economic benefit and gravity components, therefore:

$$\text{\$ Daily penalty rate} = \text{Sum of penalties} / \text{total days of violation}$$

II. Reporting Violations

One of the more common types of **Pretreatment** violations is in the area of late reporting. This occurs when a reporting deadline passes and the report is filed late or not at all. These types of violations should not occur because compliance with reporting deadlines is generally within the absolute control of a permittee. The amount of civil penalty for reporting violations can be derived from the following table:

<u>No. of Days a Report is Late</u>	<u>Amount</u>
30 – 59	\$ 50.00 per day
60 – 89	\$ 100.00 per day
90 – 179	\$ 200.00 per day
180 or more	\$ 400.00 per day

III. Trucked Waste Violations

Because IWCP has more control over these types of disposals, any violation of a Trucked Waste Permit should be assessed on a case-by-case basis, up to the maximum of \$2,500 per day for each violation. Intentional acts, such as intentional manifest falsification or intentional misrepresentation mandate strong enforcement action to the maximum extent allowed under the law. This includes the revocation of a permit and suspension of service.

IV. Cost Recovery

Industrial Users should note that any costs associated with the violation(s) (such as sampling, analysis, investigation, surveillance) and any harm done to the environment or damage to the City wastewater system **are not taken into account in arriving at a penalty**. These costs can be recovered in addition to any administrative civil penalties authorized under the Municipal Code.

ADJUSTMENT FACTORS

In determining the daily penalty rate, the IWCP Manager may also consider some or all of the following factors to increase or decrease the average daily penalty rate calculated using the above formulas:

- 1) duration of the violation
- 2) frequency or recurrence of the violation
- 3) seriousness of the violation
- 4) compliance history of the industrial user
- 5) Industrial User's conduct after issuance of the Administrative Notice and Order
- 6) good faith effort by the Industrial User to comply
- 7) economic impact of the violation on the Industrial User
- 8) impact of the violation upon the community
- 9) any other factors that justice may require

IWCP ENFORCEMENT RESPONSE TABLE

ABBREVIATIONS

A	Attorney
CO	Compliance Order
I	Wastewater Pretreatment Inspector
IU	Industrial User
L	Sampling Laboratory Technician
NOV	Notice of Violation
PC	Preliminary Conference
PM	Pretreatment Program Manager
PO	Penalty Order
POTW	Publicly Owned Treatment Works
S	Supervising Wastewater Pretreatment Inspector
UPM	Unclassified Program Manager

IWCP ENFORCEMENT RESPONSE TABLE

NONCOMPLIANCE	NATURE OF THE VIOLATION	RANGE OF ENFORCEMENT RESPONSES	PERSONNEL
I. DISCHARGE VIOLATION			
A. Local/Federal Permit Limit or General Prohibition Exceeded	Isolated	NOV Re-sampling	S L
	Recurring	Re-sampling Compliance Inspection NOV PC CO PO Civil Action	L I S S S/PM PM/UPM PM/UPM/A
	Pollutant results in the IU being in SNC	Newspaper Publication	S/PM
	Causes interference or pass through at the POTW, or endangers human health or the environment which may result in SNC	CO PO Civil or Criminal Action Revoke Permit Terminate Service Newspaper Publication	S/PM PM/UPM PM/UPM/A UPM/A UPM/A S/PM
B. Unauthorized disposal	IU unaware of requirement; no harm to POTW/health/environment	Email NOV NOV Inspection	I S I
	IU unaware of requirement; causes interference or pass through at the POTW, or endangers human health or the environment	PC CO PO Civil Action	S S/PM PM/UPM PM/UPM/A
	Failure to comply continues after IWCP notice	PC CO PO Civil or Criminal Action Terminate Service	S S/PM PM/UPM PM/UPM/A UPM/A
	Intentional diversion of regulated wastestreams around the IU's pretreatment system	PC CO PO Civil or Criminal Action Revoke Permit Terminate Service	S S/PM PM/UPM PM/UPM/A UPM/A UPM/A
C. Wastestreams are diluted in lieu of treatment	Initial occurrence	Field Notice NOV PC	I/L S S

IWCP ENFORCEMENT RESPONSE TABLE

NONCOMPLIANCE	NATURE OF THE VIOLATION	RANGE OF ENFORCEMENT RESPONSES	PERSONNEL
	Recurring, after prior notice to remedy	PC CO PO Civil Action Revoke Permit Terminate Service	S S/PM PM/UPM PM/UPM/A UPM/A UPM/A
D. Reported Slug Discharge	Isolated; no harm to the POTW/health/environment	NOV Inspection	S I
	Isolated; causes interference or pass through at the POTW, or endangers human health or the environment	NOV PC CO PO	S S S/PM S/PM/UPM
	Recurring; causes interference or pass through at the POTW, or endangers human health or the environment	PC CO PO Civil or Criminal Action Revoke Permit Terminate Service	S S/PM S/PM/UPM PM/UPM/A UPM/A UPM/A
II. REPORTING VIOLATION			
A. Reporting violation	Late, isolated and recurring	NOV PC CO PO Civil Action	S S S/PM PM/UPM PM/UPM/A
	Improperly signed or certified	NOV PC	S S
	Missing or incomplete information	NOV PC	S S
	Failure to report all self-monitoring data	NOV PC	S S
	Failure to report spill or change in disposal; IU unaware of requirement	NOV	I S

IWCP ENFORCEMENT RESPONSE TABLE

NONCOMPLIANCE	NATURE OF THE VIOLATION	RANGE OF ENFORCEMENT RESPONSES	PERSONNEL
	Failure to report spill or changed disposal; IU aware of requirement and/or recurring	NOV PC CO PO Civil or Criminal Action Revoke Permit Terminate Service	S S S/PM PM/UPM PM/UPM/A UPM/A UPM/A
	Late greater than 45 days after the due date including Baseline Monitoring, Self-Monitoring, and Compliance Reports which may result in SNC	Newspaper Publication	S/PM
	Failure to accurately report noncompliance which may result in SNC	PC CO PO Civil or Criminal Action Newspaper Publication	S S/PM S/PM/UPM PM/UPM/A S/PM
	Falsification	PC PO Criminal Action	I/S S/PM/UPM PM/UPM/A
B. Failure to self-monitor correctly	Failure to monitor all pollutants or to collect proper sample type as required by permit	NOV PC CO	S I/S S/PM
	Evidence of intent	PC PO Criminal Action	I/S PMPM/UPM/ A
III. OTHER VIOLATION			
A. Failure to properly operate & maintain pretreatment system	Initial occurrence	Field Notice NOV PC	I/L S S
B. Compliance schedules	Missed milestone	NOV PO	S PM/UPM
	Failure to start construction, complete construction, or achieve compliance within 90 days of the date specified in a CO	PO Civil Action Revoke Permit Terminate Service	S/PM/UPM S/PM/UPMA UPM/A UPM/A

IWCP ENFORCEMENT RESPONSE TABLE

NONCOMPLIANCE	NATURE OF THE VIOLATION	RANGE OF ENFORCEMENT RESPONSES	PERSONNEL
Failure to provide timely access	1. Entry denied, or consent withdrawn	Field Notice NOV PC Obtain inspection warrant	I/L S S PM/UPM/A
Inadequate record keeping	1. Documentation incomplete or missing, initial violation	Email NOV Field Notice NOV	I I S
	2. Recurring, after prior notice to remedy	PC CO	S S/PM

The remedies designated in the table are all considered appropriate. The Control Authority will weigh each of the above factors in deciding whether to use a more or less stringent response. However, the Control Authority might decide to provide enforcement responses that differ from those in this table, depending on factors relevant to the particular situation.

**Article 2: Code Enforcement
Judicial and Administrative Remedies**

Division 8: Administrative Civil Penalties

(“Administrative Civil Penalties” added 8–10–1993 by O–17956 N.S.)

§12.0801 Administrative Civil Penalties

Division 8 of Article 2 of Chapter 1 governs the administrative assessment of civil penalties for violations of the Municipal Code and applicable state codes.

(Renumbered from Sec. 13.0330, retitled to “Administrative Civil Penalties” and amended 8–10–1993 by O–17956 N.S.)

§12.0802 Declaration of Purpose

The Council finds that there is a need for alternative methods of enforcement of the San Diego Municipal Code and applicable state codes. The Council further finds that the assessment of civil penalties through an administrative hearing procedure for code violations is a necessary alternative method of code enforcement.

The administrative assessment of civil penalties established in Division 8 of this Article is in addition to any other administrative or judicial remedy established by law which may be pursued to address violations of the Municipal Code or applicable state codes.

(Renumbered from Sec. 13.0331, retitled to “Declaration of Purpose” and amended 8–10–1993 by O–17956 N.S.)

§12.0803 Authority

- (a) Any person violating any provision of the Municipal Code or applicable state code may be subject to the assessment of civil penalties pursuant to the administrative procedures provided in Sections 12.0804 through 12.0810 of this Division.
- (b) Each and every day a violation of any provision of the Municipal Code or applicable state code exists constitutes a separate and distinct violation.
- (c) Civil penalties may be directly assessed by means of a Notice and Order issued by the Director or affirmed by a City Manager’s Enforcement Hearing Officer. Civil penalties may be recovered by assessment of a Code Enforcement Lien pursuant to Division 2 of Article 3 of Chapter 1 or subsequent legal action brought by the City Attorney.

- (d) Civil penalties for violations of any provision of the Municipal Code or applicable state codes shall be assessed at a daily rate determined by the Director or Enforcement Hearing Officer pursuant to the criteria listed in Section 12.0805 of this Division. The maximum rate shall be \$10,000 per violation. The maximum amount of civil penalties shall not exceed \$400,000 per parcel or structure for any related series of violations.

(Amended 5-20-2003 by O-19177 N.S.)

(Amended 2-3-2017 by O-20788 N.S.; effective 3-5-2017.)

§12.0804 Procedures—Notice and Order

- (a) Whenever a Director determines that a violation of one or more provisions of the Municipal Code or applicable state code has occurred or continues to exist, a written civil penalties Notice and Order may be issued to the Responsible Person.
- (b) The Notice and Order shall refer to all code sections violated and describe how each section is or has been violated.
- (c) The Notice and Order shall refer to the dates and locations of the violations.
- (d) The Notice and Order shall describe all remedial action required to permanently correct outstanding violations and establish time frames for completion.
- (e) The Notice and Order shall establish a daily amount of civil penalties. The Director shall determine the daily amount of civil penalties pursuant to the criteria in Section 12.0805 of this Division.
- (f) The Notice and Order shall identify a date when the civil penalties began to accrue and a date when the assessment of civil penalties ended, unless the violation is continuous. In the case of a continuous violation, there shall be an ongoing assessment of penalties at the daily rate established in the Notice and Order until the violations are corrected.
- (g) If a Director determines that the violations are continuing, the Notice and Order shall demand that the Responsible Person cease and desist from further action causing the violations and commence and complete all action to correct the outstanding violations under the guidance of the appropriate City Departments.
- (h) The Notice and Order shall enumerate any other consequences should the Responsible Person fail to comply with the terms and deadlines as prescribed in the Notice and Order.

- (i) The Notice and Order shall identify appropriate hearing procedures as required by Sections 12.0401 through 12.0413 of this Chapter.
- (j) The Notice and Order shall be served upon the Responsible Person by any one of the methods of service listed in Section 11.0301 of this Chapter.
- (k) The Notice and Order shall identify the factors used by a Director in determining the duration and the daily amount of civil penalties.
- (l) More than one Notice and Order may be issued against the same Responsible Person if it encompasses either different dates or different violations.
(“Procedures—Notice and Order” renumbered from Sec. 13.0334 and amended 8-10-1993 by O-17956 N.S.)

§12.0805 Determination of Civil Penalties

- (a) In determining the date when civil penalties started to accrue, a Director may consider the date when the Department first discovered the violations as evidenced by the issuance of a Notice of Violation or any other written correspondence.
- (b) The assessment of civil penalties shall end when all action required by the Notice and Order has been completed.
- (c) In determining the amount of the civil penalty to be assessed on a daily rate, a Director may consider some or all of the following factors:
 - (1) The duration of the violation.
 - (2) The frequency or recurrence of the violation.
 - (3) The nature and seriousness of the violation.
 - (4) The history of the violation.
 - (5) Whether the offense impacted environmentally sensitive lands, a *historical resource*, or a *designated historical resource* as defined in Chapter 11, Article 3, Division 1 of the Municipal Code.
 - (6) The willfulness of Responsible Person’s misconduct.
 - (7) The Responsible Person’s conduct after issuance of the Notice and Order.
 - (8) The good faith effort by the Responsible Person to comply.

- (9) The economic impact of the penalty on the Responsible Person.
- (10) The impact of the violation upon the community.
- (11) Any other factors that justice may require.
- (d) The City Manager has the authority to establish a penalty schedule for a Director to use as a guideline in determining the amount of civil penalties in appropriate cases. The Manager shall also establish procedures for the use of this penalty schedule.

(Amended 5-20-2003 by O-19177 N.S.)

(Amended 3-14-2012 by O-20143 N.S.; effective 4-13-2012.)

§12.0806 Administrative Costs

A Director or Enforcement Hearing Officer is authorized to assess all reasonable costs. Costs may include, but are not limited to: staff time to investigate and document violations; laboratory, photographic, and other expenses incurred to document or establish the existence of a violation; and scheduling and processing of the administrative hearing and all actions. Any determination that documented costs are not reasonable must be supported by written findings.

(“Administrative Costs” added 8-10-1993 by O-17956 N.S.)

(Amended 2-26-2007 by O-19579 N.S.; effective 3-28-2007.)

§12.0807 Failure to Comply with Director’s Notice and Order

A Director shall request the City Manager to appoint an Enforcement Hearing Officer and to establish a date, time and place for the civil penalties hearing in accordance with Division 4 of Article 2 of Chapter 1 when the Responsible Person fails to comply with the terms of the Notice and Order. Failure to comply includes failure to pay the assessed civil penalties, failure to commence and complete corrections by the established deadlines or failure to refrain from continuing violations of the Municipal Code or applicable state codes.

(“Failure to Comply with Director’s Notice and Order” added 8-10-1993 by O-17956 N.S.)

§12.0808 Civil Penalties Hearing

- (a) The procedures for the civil penalties hearing are the same as the hearing procedures set forth in Division 4 of Article 2 of Chapter 1.
- (b) The Enforcement Hearing Officer shall only consider evidence that is relevant to the following issues: (1) whether the Responsible Person has caused or maintained a violation of the Municipal Code or applicable state code that existed on the dates specified in the Notice and Order; and (2) whether the amount of civil penalties assessed by the Director pursuant to the procedures and criteria outlined in Section 12.0805 was reasonable.
(“Civil Penalties Hearing” added 8–10–1993 by O–17956 N.S.)

§12.0809 Administrative Enforcement Order

- (a) Once all evidence and testimony are completed, the Enforcement Hearing Officer shall issue an Administrative Enforcement Order which affirms or rejects the Director’s Notice and Order or which modifies the daily rate or duration of the civil penalties depending upon the review of the evidence. The Enforcement Hearing Officer may increase or decrease the total amount of civil penalties and costs that are assessed by the Director’s Notice and Order.
- (b) The Enforcement Hearing Officer may issue an Administrative Enforcement Order that requires the Responsible Person to cease from violating the Municipal Code or applicable state codes and to make necessary corrections.
- (c) As part of the Administrative Enforcement Order, the Enforcement Hearing Officer may establish specific deadlines for the payment of penalties and costs and condition the total or partial assessment of civil penalties on the Responsible Person’s ability to complete compliance by specified deadlines.
- (d) The Enforcement Hearing Officer may issue an Administrative Enforcement Order which imposes additional civil penalties that will continue to be assessed until the Responsible Person complies with the Hearing Officer’s decision and corrects the violation.
- (e) The Enforcement Hearing Officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the Administrative Enforcement Order.
(“Administrative Enforcement Order” added 8–10–1993 by O–17956 N.S.)

§12.0810 Failure To Comply With The Administrative Enforcement Order

(a) Upon the failure of the Responsible Person to comply with the terms and deadlines set forth in the Administrative Enforcement Order, the Director may use all appropriate legal means to recover the civil penalties, administrative costs and obtain compliance with the Administrative Enforcement Order.

(b) After the Enforcement Hearing Officer issues an Administrative Enforcement Order, the Director shall monitor the violations and determine compliance.

(Renumbered from Sec. 13.0336, retitled to "Failure To Comply With The Administrative Enforcement Order" and amended 8-10-1993 by O-17956 N.S.)

SAN DIEGO SEWER USE ORDINANCE

Article 4: Wastewater

(Retitled from “Sewers” to “Wastewater” on 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

Division 1: Purpose, Scope and Policy

*(“Purpose, Scope and Policy”
added 6-6-1983 by O-15984 N.S.)*

§64.0100 Purpose

The purpose of this Article is to provide for the maximum beneficial public use of the *wastewater system* through adequate regulation of sewer construction, sewer use, and *industrial wastewater* discharge, to provide for equitable distribution of the City’s costs, and to provide procedures for complying with *wastewater* discharge requirements placed upon the City by other regulatory bodies.

*(“Purpose” added 6-6-1983 by O-15984 N.S.)
(Amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)*

§64.0101 Scope

This Article shall be interpreted in accordance with the definitions set forth herein and the provisions of this Article shall apply to the *Discharges* and wastestreams of all waste into the *wastewater system*.

This Article, among other things, provides for the regulation of sewer construction in areas within the City’s boundaries, the quantity and quality of wastestreams, the degree of waste pretreatment required, the setting of waste discharge fees to provide for equitable distribution of costs, the approval of plans for sewer construction, the issuance of *industrial user permits* and of other miscellaneous permits, and the establishment of penalties for violation of this Article.

*(“Scope” added 6-6-1983 by O-15984 N.S.)
(Amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)*

§64.0102 Wastewater Disposal Policy

The City constructs, operates, and maintains a *wastewater system* serving homes, industries, and commercial establishments within the City's boundaries and to other *wastewater* that is tributary to the *wastewater system*.

Generally, *wastewater* will be transported and treated by the *wastewater system* provided the *wastewater* will not (1) damage structures, (2) create nuisances such as odors, (3) menace public health, (4) impose unreasonable collection, treatment or disposal costs on the City, (5) interfere with *wastewater* treatment processes, (6) violate quality requirements set by regulatory government agencies, or (7) detrimentally affect the local environment.

The City is committed to a policy of *wastewater* reclamation and reuse to provide an alternate source of water supply and to reduce overall costs of *wastewater* treatment and disposal. The reclamation of *wastewater* through secondary and tertiary *wastewater* treatment processes may necessitate more stringent quality requirements on *Industrial Users* than those required by other regulatory agencies.

To comply with stated policies of the federal government and to permit the City to meet increasingly higher standards, provisions are made in this Article for the regulation of *wastewater*. This Article establishes quantity and quality limitations on *wastewater*. Methods of cost recovery from *Industrial Users* are also established where the *wastewater* imposes inequitable collection, treatment, or disposal costs on the City.

Recovery and reuse procedures established by *Industrial Users* themselves to meet the limitations set on their *discharges* will be preferred by the City over those procedures designed solely to meet *wastewater* limitations. Methods providing for beneficial reuse of otherwise wasted resources shall be the approved method of *industrial wastewater* treatment wherever feasible.

Optimum use of the *wastewater system* may require that certain *wastewater* be discharged during periods of low flow in the *wastewater system*.

(“Liquid Waste Disposal Policy” added 6-6-1983 by O-15984 N.S.)

(Retitled from “Liquid Waste Disposal Policy” to Wastewater Disposal Policy” and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

Article 4: Wastewater**Division 2: Definitions***(“Definitions” added 6–6–1983 by O–15984 N.S.)***§64.0200 Definitions**

For purposes of this Article, the following defined terms appear in italics:

Act has the same meaning as in 40 C.F.R. 403.3(b) which means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §§ 1251-1387.

Applicant means any *person*, firm, entity, or agency who applies for connections to the *wastewater system*.

Best management practices or *BMPs* has the same meaning as in 40 C.F.R. 403.3(e) which means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent discharges prohibited by Municipal Code section 64.0510. *BMPs* also include treatment requirements, operating procedures, and practices to control plan site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. Note: *BMPs* also include alternative means (i.e., management plans) of complying with, or in place of, certain established *Categorical Pretreatment Standards* and effluent limits.

Categorical Pretreatment Standard, *Categorical Standard*, *National Pretreatment Standard*, *Pretreatment Standard*, or *Standard* has the same meaning as in 40 C.F.R. 403.3(l), which means any regulation containing *pollutant* discharge limits promulgated by the *EPA* in accordance with section 307(b) and (c) of the *Act*, which applies to *Industrial Users*. This term includes prohibitive discharge limits established pursuant to 40 C.F.R. 403.5.

Discharge authorization means any written authorization issued by the City Manager authorizing the disposal of *industrial wastewater* to the *wastewater system* that is not an *industrial user permit*.

Domestic wastewater means *wastewater* from residential sources, hotel rooms, and restrooms consisting primarily of waterborne human waste.

EPA means the United States Environmental Protection Agency.

Indirect Discharge or *Discharge* has the same meaning as in 40 C.F.R. 403.3(i) which means the introduction of pollutants into a *POTW* from any non-domestic source regulated under section 307(b), (c), or (d) of the *Act*.

Hydrolysate means the resultant liquid from the hydrolysis of human remains.

Hydrolysis means the process by which the body of a deceased person is chemically reduced to its essential organic components and bone fragments either before or after processing of the remains after removal from the hydrolysis chamber.

Industrial wastewater means *wastewater* from any producing, manufacturing, processing, institutional, commercial, service, agricultural, or other similar operation even if such *wastewater* is combined with *domestic wastewater*, and includes groundwater and surface run-on at project sites with active construction dewatering or groundwater remediation.

Industrial User has the same meaning as in 40 C.F.R. 403.3(j) which means a source of *Indirect Discharge*.

Industrial user permit means a permit issued by the Industrial Wastewater Control Program and authorized by the City Manager for a particular activity pursuant to Municipal Code section 64.0501.

Interference has the same meaning as in 40 C.F.R. 403.3(k) which means a *Discharge* which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) inhibits or disrupts the *POTW*, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) therefore is a cause of a violation of any requirement of the *POTW's* National Pollutant Discharge Elimination System (NPDES) permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

Local limit means a numerical limit on a *pollutant* established by the City Manager to implement the general and specific prohibitions set forth at Municipal Code section 64.0510. Such limits shall be technically based and shall require *EPA* or the Regional Water Quality Control Board approval prior to implementation.

New Source has the same meaning as in 40 C.F.R. 403.3(m), which means:

- (1) Any building, structure, facility, or installation from which there is or may be a *Discharge of pollutants*, the construction of which commenced after the publication of proposed *Pretreatment Standards* under section 307(c) of the *Act* which will be applicable to such source if such *Standards* are thereafter promulgated in accordance with that section, provided that:
 - (i) the building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (ii) the building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of *pollutants* at an existing source; or
 - (iii) the production or *wastewater* generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plan, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a *New Source* if the construction does not create a new building, structure, facility or installation meeting the criteria of 40 C.F.R. 403.3(m)(1)(ii) or (m)(1)(iii), but otherwise alters, replaces, or adds to the existing process or production equipment.
- (3) Construction of a *New Source* as defined under this paragraph has commenced if the owner or operator has:
 - (i) Begun, or caused to begin as part of a continuous onsite construction program:
 - (A) Any placement, assembly, or installation of facilities or equipment; or

- (B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of *New Source* facilities or equipment; or
- (ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Pass through has the same meaning as in 40 C.F.R. 403.3(p) which means a *Discharge* which exits the *POTW* into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the *POTW's* NPDES permit (including an increase in the magnitude or duration of a violation).

Person has the same meaning as in San Diego Municipal Code section 11.0210.

Pollutant means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

Publicly Owned Treatment Works or *POTW* has the same meaning as in 40 C.F.R. 403.3(q), which means treatment works as defined by section 212 of the *Act*, which is owned by a State or municipality (as defined by section 502(4) of the *Act*). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey *wastewater* to a *POTW treatment plant*. The term also means the municipality as defined in section 502(4) of the *Act*, which has jurisdiction over the *Indirect Discharges* to and the discharges from such a treatment works.

POTW treatment plant has the same meaning as in 40 C.F.R. 403.3(r), which means that portion of the *POTW* which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

Pretreatment has the same meaning as in 40 C.F.R. 403.3(s), which means the reduction of the amount of *pollutants*, the elimination of *pollutants*, or the alteration of the nature of *pollutant* properties in *wastewater* prior to or in lieu of discharging or otherwise introducing such *pollutants* into a *POTW*. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 C.F.R. 403.6(d). Appropriate *pretreatment* technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the *POTW*. However, where *wastewater* from a regulated process is mixed in an equalization facility with unregulated *wastewater* or with *wastewater* from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 C.F.R. 403.6(e).

Pretreatment Requirement has the same meaning as in 40 C.F.R. 403.3(t), which means any substantive or procedural requirement related to *pretreatment*, other than a *National Pretreatment Standard*, imposed on an *Industrial User*.

Sewer lateral means the pipe that collects *wastewater* from drains, sinks, showers, tubs, toilets, and other fixtures on the property, including the portion of the pipe that extends from the property and connects to the City's sewer main.

Significant Industrial User has the same meaning as in 40 C.F.R. 403.3(v), which means:

- (i) All *Industrial Users* subject to *Categorical Pretreatment Standards* under 40 C.F.R. 403.6 and 40 C.F.R chapter I, subchapter N; and
- (ii) Any other *Industrial User* that: discharges an average of 25,000 gallons per day or more of process *wastewater* to the *POTW* (excluding sanitary, noncontact cooling and boiler blowdown *wastewater*); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the *POTW treatment plant*; or is designated as such by the Control Authority as defined in 40 C.F.R 403.3(f) on the basis that the *Industrial User* has a reasonable potential for adversely affecting the *POTW's* operation or for violating any *Pretreatment Standard* or requirement (in accordance with 40 C.F.R. 403.8(f)(6)).

Significant Noncompliance or *SNC* has the same meaning as in 40 C.F.R. 403.8(f)(2)(viii), which means a *Significant Industrial User* (or any *Industrial User* which violates 40 C.F.R. 403.8(f)(2)(viii)(C), (D), or (H)) if its violation meets one or more of the following criteria:

- (A) Chronic violations of *wastewater Discharge* limits, defined here as those in which 66 percent or more of all the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric *Pretreatment Standard* or *Pretreatment Requirement*, including instantaneous limits, as defined by 40 C.F.R. 403.3(l);
- (B) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric *Pretreatment Standard* or *Pretreatment Requirement* including instantaneous limits, as defined by 40 C.F.R. 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other *pollutants* except pH);
- (C) Any other violation of a *Pretreatment Standard* or *Pretreatment Requirement* as defined by 40 C.F.R. 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative *Standard*) that the *POTW* determines has caused, alone or in combination with other *Discharges*, *Interference* or *Pass Through* (including endangering the health of *POTW* personnel or the general public);
- (D) Any discharge of a *pollutant* that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the *POTW's* exercise of its emergency authority under 40 C.F.R. 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;
- (E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (F) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

- (G) Failure to accurately report noncompliance;
- (H) Any other violation or group of violations, which may include a violation of *Best Management Practices*, which the *POTW* determines will adversely affect the operation or implementation of the local *Pretreatment* program.

Slug discharge means a wastestream of a non-routine, episodic nature, including an accidental spill or an uncustomary batch discharge, which could cause *interference*, *pass-through*, or adversely affect the operation or maintenance of the *wastewater system*, or in any other way violate the *POTW's* regulations, *local limits*, or permit conditions.

Wastewater means water that is no longer useful and has been or is in the process of being discarded, including liquid and water carried waste and sewage from residential properties, commercial buildings, industrial and manufacturing facilities, and institutions.

Wastewater system means treatment works as defined in section 212 of the *Act*, which is owned or operated by the City, or operated under contract with the City, including any facilities involved in recycling *wastewater* to standards suitable for irrigation or potable reuse, and any facilities generating renewable energy from the byproducts of *wastewater* treatment or disposal. Sewer pipes, pump stations, and related facilities are included only if they convey *wastewater* to or from a *POTW treatment plant*.

(Amended 11-14-2000 by O-18880 N.S.)

(Amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

Article 4: Wastewater**Division 3: General Provisions**

(“General Provisions” added 6–6–1983 by O–15984 N.S.)

§64.0301 Administration

The City Manager shall administer, implement, and enforce the provisions of this Article. Any powers granted to or duties imposed upon the City Manager may be delegated by the City Manager to persons in the employ of the City.

The City Manager shall make and enforce regulations necessary to the administration of this Article and may amend such regulations from time to time as conditions require. These regulations shall be consistent with the general policy established by this Article.

(“Administration” added 6–6–1983 by O-15984 N.S.)

(“Administration” renumbered from Section 64.0300 to Section 64.0301 and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026. Former Section 64.0301 “Penalties for Violations” repealed.)

§64.0302 Time Limits

Any time limit provided in any written notice or in any provision of this Article may be extended only by a written directive of the City Manager.

(“Time Limits” renumbered from Sec. 64.0303 on 6–11–1990 by O–17476 N.S.)
(Amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0303 Inspection and Sampling

- (a) The City Manager may inspect any property or facility that is connected to the *wastewater system* and may sample any *wastewater* at the property or facility as stated in 40 C.F.R. 403.8(f)(2)(v) and (vii). This includes drains, sewers, *wastewater* pumping stations, pollution control plants, all industrial processes, food establishment facilities or other facilities which discharge grease and oil, *industrial wastewater* generation, conveyance and *pretreatment* facilities, and all similar *wastewater* facilities. Inspections may be made to determine that such facilities are maintained and operated properly and that no violations of this Article are occurring.

- (b) Access shall be given to authorized personnel of the City during normal business hours, or any time the City Manager reasonably believes a violation of this Article is occurring. Adequate identification shall be provided by the City Manager for all inspectors and authorized personnel, and those persons shall identify themselves when entering any property for inspection purposes or when inspecting the work of any contractor. Any permanent or temporary obstruction to easy access to the *wastewater* facility to be inspected shall promptly be removed by the facility user or owner at the written or verbal request of the City Manager and permanent obstructions shall not be replaced.
- (c) It is unlawful to interfere with, delay, resist, or refuse entrance to an authorized City employee attempting to inspect any property or facility directly or indirectly connected to the *wastewater system*, or attempting to sample any *wastewater* at the property or facility.
- (d) The City, through its representatives or inspectors, shall have the right to inspect and copy pertinent records relating to an *Industrial User's wastewater* or *pretreatment* operations including: Operations & Maintenance procedures; sampling, analysis, and flow measurement procedures, results and records; inventories, chemical usage, materials sources, hazardous materials manifests, and disposal records; treatment and operations log books; and materials invoices.

(Amended 11-14-2000 by O-18880 N.S.)

(Amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0304 Recording of Fees and Charges

The City Manager shall keep an accurate account of all fees and charges received under this Article, recording the names and addresses of the persons on whose account the fees and charges were paid, the date and amount thereof, and the purpose for which charges were paid.

(“Recording of Fees and Charges” renumbered from Sec. 64.0305 on 6-11-1990 by O-17476 N.S.)

(Amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0305 Estimated Quantities and Values

Unless otherwise provided in this Article, whenever the fees and charges required by this Article are based on estimated values or estimated quantities, the City Manager shall make such determinations in accordance with established estimating practices.

(“Estimated Quantities and Values” renumbered from Sec. 64.0306 on 6-11-1990 by O-17476 N.S.)

(Amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0306 Approval of Plans and Issuance of Permits

- (a) The City Manager is responsible for approving plans for the construction of *wastewater* facilities and issuing *industrial user permits* or any other permit under this Article. The City Manager may do so only if it appears that the *wastewater* facilities construction, sewer connection, *Discharge* or other procedure conforms to the requirements of this Article.
- (b) The City Manager may deny or condition any new or increased contributions of *wastewater*, *pollutants*, or changes in the nature of *pollutants*, to the *wastewater system* where such contributions do not meet the applicable *Pretreatment Standard*, *Pretreatment Requirement*, or where such contributions by itself or in combination with other *wastewater*, could cause *interference*, *pass-through*, or adversely affect the operation or maintenance of the *wastewater system*.
- (c) All required fees and charges shall be paid before approval of plans or issuance of a permit.
- (d) The approval of plans or the issuance of a permit shall not relieve a *person* of any duty or obligation imposed by this Article.

(“Approval of Plans and Issuance of Permits” renumbered from Sec. 64.0307 on 6-11-1990 by O-17476 N.S.)

(Amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0307 Unauthorized Access or Damage to the Wastewater System

It is unlawful for any *person*, without authorization from the City Manager, to enter, break, damage, destroy, uncover, deface, or tamper with any structure, equipment, or appurtenance of the *wastewater system*.

(“Malicious Damage to City’s Facilities” renumbered from Sec. 64.0308 on 6-11-1990 by O-17476 N.S.)

(Retitled from “Malicious Damage to City’s Facilities” to “Unauthorized Access or Damage to the Wastewater System” and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0308 Limitations on Point of Wastewater Disposal

It is unlawful for any person to introduce *wastewater* or any substance or material directly into a manhole or other opening in the *wastewater system* other than through an approved sewer connection or by obtaining a permit issued by the City Manager.

(“Limitations on Point of Wastewater Disposal” added 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0309 False Information

- (a) It is unlawful for any *person* to intentionally provide false information, or intentionally fail to provide material information, in any application, report, plan, or other document submitted to the City or for any permit issued pursuant to this Article.
- (b) It is unlawful for any *person* to intentionally render inaccurate any monitoring device or method required by a permit issued pursuant to this Article, or to intentionally provide a false or inaccurate *wastewater* sample to the City.

(“False Information” added 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0310 Penalties for Violations

- (a) The penalties and remedies for violations specified in this Article are cumulative to the penalties and remedies set forth in Chapter 1, Article 2 of this Code.
- (b) The disposal or handling of *domestic wastewater* or *industrial wastewater* in violation of this Article is a public nuisance subject to injunction, abatement, and penalties under Chapter 1, Article 2 of this Code.
 - (1) Violations of Division 5 of this Article are not limited by the maximum amount of civil penalties in Section 12.0803(d). The amount of civil penalties that may be assessed shall be governed by 40 C.F.R. 403.8(f)(1)(vi).
- (c) The failure to use reclaimed water as required by the City Manager under Division 8 of this Article is a public nuisance subject to injunction, abatement, and penalties under Chapter 1, Article 2 of this Code.
- (d) Any *person* who violates a provision of this Article which causes a deposit, obstruction, damage, or any other impairment to the *wastewater system* shall be liable to the City for all expense, loss, and damage incurred by the City as a result of the violation.

- (e) Whenever a wastestream is in violation of the provisions of this Article, or otherwise causes or threatens to cause a condition of contamination, pollution, or nuisance, the City Manager may cause the City to seek a petition to the Superior Court for the issuance of a preliminary or permanent injunction or both, as may be appropriate in restraining the continuance of such *Discharge*.
- (f) The City Manager may terminate *wastewater* service to any property where *wastewater* is disposed or handled in violation of this Article or in a manner that threatens the environment, the health, safety, or welfare of the public, or the operation of the *wastewater system*. The City Manager may terminate *wastewater* service by severing or blocking connections between the property and the *wastewater system*, and by terminating water service as allowed under Chapter 6, Article 7 of this Code.
- (1) The City Manager shall provide prior written notice to the customer that *wastewater* service is being terminated and provide an opportunity to contest the termination at a hearing under Chapter 1, Article 2, Division 4 of this Code. The City Manager shall also send a notice to the property owner if the property owner is not the same *person* as the customer and allow the property owner to contest the termination at the hearing.
- (2) The City Manager may immediately terminate *wastewater* service upon written notice if the discharge of *wastewater* presents an imminent danger to the environment, the health, safety, or welfare of the public, or the operation of the *wastewater system*. Such an immediate termination of *wastewater* service shall remain in effect at least until the conclusion of a hearing held under Chapter 1, Article 2, Division 4 of this Code.
- (3) The City Manager shall reestablish *wastewater* service upon the final decision of a hearing officer that a violation of this Article did not occur and that the disposal of *wastewater* from the property did not threaten the environment, the health, safety, or welfare of the public, or the operation of the *wastewater system*.
- (4) The City Manager may reestablish *wastewater* service if the City Manager determines that the reason for the termination no longer exists and is not likely to reoccur.

(“Penalties for Violations” added 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

Article 4: Sewers**Division 4: Construction, Maintenance, Funding
and Use of Wastewater Facilities**

*(“Construction, Maintenance, Funding and
Use of Wastewater Facilities”
added 6–6–1983 by O–15984 N.S.)*

§64.0400 Connections to Public Sewers— Permit Required

It is a misdemeanor for any person to connect any pipe on private property with any pipe in the street that is connected with the public sewer of City, or to construct any sewer in City, without first obtaining a permit from the City as hereinafter provided.

Application must be made in writing to the City, by the owner of the property to be sewer, or his agent. A permit must be obtained prior to the installation of any plumbing fixtures.

Where a sewer line is installed at the cost of property owners, on or over any street, alley, or any ground dedicated to the City for street purposes, or across private property, and where the sewer is connected to any public sewer, or is run to any outfall or septic tank which may be on City property, or which will ever be connected with the public sewer, or may become a part of the City wastewater system, the same shall be installed under City supervision, and the City shall have the right to make extensions and connections to said sewer at any and all time.

*(“Connections to Public Sewers— Permit Required” added 6–6–1983 by
O-15984 N.S.)*

§64.0401 Approval of Plans for Wastewater Facilities Construction

No person, other than employees of the City, persons contracting to do work for the City, or maintenance workers of the City shall construct or cause to be constructed, or alter or cause to be altered, any public sewer, lateral sewer, house connection or industrial connection sewer, or wastewater pumping station, within the City where existing or proposed wastewater flows will discharge directly or indirectly to the City’s public sewers without first obtaining approval of wastewater facility construction plans from the City.

(12-2019)

The applicant shall submit to the City for approval, construction plans and such specifications and other details as required to describe fully the proposed wastewater facility. The plans shall have been prepared under the supervision of and shall be signed by an engineer of suitable training registered in the State of California.

(“Approval of Plans for Wastewater Facilities Construction” added 6–6–1983 by O-15984 N.S.)

§64.0402 Connections to Public Sewers— Work Done By City— Fees and Charges

The owner or applicant for a sewer connection shall pay to City for construction and laying of laterals an amount to be established by resolution of the City Council based upon recommendations by the City Manager. Said amounts shall be determined and computed in order to fully reimburse City for the cost of materials, labor, equipment and any other costs incidental to the performance of said services.

In all cases in which a lateral has been installed to serve a particular lot or parcel of land and the street is, or has been subsequently paved, that lateral must be used unless an exception is made by the City Manager.

(“Connections to Public Sewers— Work Done By City— Fees and Charges” added 6–6–1983 by O-15984 N.S.)

§64.0403 Sewer Revenue Fund Established

- (a) There is hereby created a “Sewer Revenue Fund.” All revenues derived from the operation of the wastewater system shall be paid into the Sewer Revenue Fund.
- (b) All revenues shall be used for the following purposes only:
 - (1) Paying the cost of maintenance and operation of the City’s wastewater system.
 - (2) Paying all or any part of the cost and expense of extending, constructing, reconstructing, or improving the City’s wastewater system or any part thereof.
 - (3) Any purpose authorized by Section 90.2 of the City Charter.
 - (4) Paying the cost of mitigation of fair share overburdens within any City Council district as more fully set forth in Section 64.0403(c).

(12-2019)

- (c) Fair share overburdens and mitigation therefrom shall require specific findings by the City Council that a City Council district has been or will be overburdened by more than its fair share of waste-water projects that have been located or constructed, or will be located or constructed, within its territorial boundaries. City Council findings shall be based upon factual and empirical evidence of the overburden and shall require and provide a clear and concise nexus between the overburden caused by the project and any proposed mitigation. Such matters shall be considered at the time when an award of a construction contract resulting in or adding to the overburden is being considered by the City Council. Under no circumstances shall the mitigation compensation require the use of Sewer Revenue Funds in excess of 2.5% of the estimated construction cost of the project.

(Amended 9-27-1993 by O-17987 N.S.)

§64.0404 Sewer Service Charge Established

- (a) In addition to other fees, assessments or charges provided by the Municipal Code, the owner or occupant of any parcel of real property for which no other sewer service charge is provided, and which parcel of property is connected with the wastewater system and/or water system of the City of San Diego, shall pay a sewer service charge as established from time to time by a resolution of the City Council; provided, however, that prior to considering any change in said sewer service charge by resolution as aforesaid, a notice of the proposed change shall be posted by the City Clerk at least ten (10) days prior to consideration of such a resolution by the City Council.
- (b) Further, consistent with and in addition to, other fees, assessments and charges provided by the Municipal Code, the owner or occupant of any parcel of real property which is connected to the wastewater system or water system of the City of San Diego, shall pay a storm drain fee as established from time to time by a resolution of the City Council; provided, however, that prior to considering any change in said Storm Drain Fee by resolution, as aforesaid, a notice of the proposed change shall be posted by the City Clerk at least ten (10) days prior to consideration by the City Council.

(Amended 2-20-1990 by O-17425 N.S.)

§64.0405 Sewer Service Charge Outside City

When it appears to the best interests of the City and the people thereof and when approved in writing by the City Manager, the owner or occupant of property situated outside the boundaries of the City may be permitted to have such property connected to the sewer system of the City. In addition to other fees, assessments or charges provided by the Code, the owner or occupant of property situated outside the City shall pay a sewer service charge for applicable service established by Section 64.0404.

(“Sewer Service Charge Outside City” added 6-6-1983 by O-15984 N.S.)

§64.0406 Rules and Regulations of the City Manager

- (a) The City Manager shall have the power to prescribe reasonable sewer service charges other than established in the Municipal Code and to establish rules and regulations for the granting of variances from the established sewer service charges for property connected with the sewer service and/or the water service of the City. Such rules, regulations and sewer service charges shall be effective when approved by the City Council. The City Manager shall have the power to grant variances from the established sewer service charges upon his own initiative or when the owner or occupant of any premises applies therefor as hereinafter provided and one or more of the following situations exist:
- (1) Where the wastewater from any parcel or premise, except single-family residences shall be substantially different in volume or type from the average wastewater entering the sewer system of the City. For the purpose of this subsection, “average wastewater” shall be: In volume, 50 to 70 gallons of wastewater for each 100 gallons of water consumed on any plant, building or premises of an industrial or commercial character, and in type, 300 milligrams per liter (mg/l) of suspended solids and 300 mg/l of biochemical oxygen demand.
 - (2) Where the water supplied to an entity utilizing the sewer system is received from a source other than the City’s water system; provided that the sewer service charge for such entities shall as nearly as possible be equivalent to the sewer service charge established under this section for similar entities supplied with water from the City’s water system. However, if the entity utilizing the sewer does not have a metered water flow, then the wastewater flow must be measured and charged on a basis equal to the established variance charge for one hundred percent (100%) ratio of sewer flow to water use.

(12-2019)

- (3) Where a substantial portion of the premises of an industrial or commercial establishment is used for industrial, commercial, recreational, horticultural or agricultural purposes of such a nature that the water supplied to such premises is not entirely or substantially discharged into the sewer system.
 - (4) Where a fire service connection to the municipal water system is installed.
 - (5) Where the premises are not connected to the City's wastewater system and it is not physically possible or reasonable feasible financially to connect such premises with the City's wastewater system.
 - (6) When water is supplied to premises through a separate water meter measuring irrigation water and that water is used entirely for irrigation purposes.
- (b) The owner or occupant of any premises subject to the sewer service charge may apply in writing to the City Manager for a reclassification of such premises under the provisions of paragraph (a), subparagraphs 1 through 6; provided, however, that no rebate upon such reclassification shall be allowed for a period of more than ninety (90) days preceding the filing of such application. The applicant shall furnish substantial engineering and factual data to support the applicant's contention that the premises should be reclassified as provided in this section. The decision of the City Manager shall be final and conclusive.

("Rules and Regulations of the City Manager" added 6-6-1983 by O-15984 N.S.)

§64.0407 Adjustment of Sewer Service Charges Authority Therefor

When excessive water consumption is caused by unknown water pipe leaks, sewer service charge adjustments may be made by the Department in accordance with Administrative Regulations promulgated by the City Manager.

("Adjustment of Sewer Service Charges Authority Therefor" added 6-6-1983 by O-15984 N.S.)

(12-2019)

§64.0408 Payment of Sewer Service Charge

All sewer service charges and storm drain fees imposed under the provisions of this ordinance shall be due and payable at the times and in the manner provided in the Municipal Code for the payment of water bills. Such sewer service charges and storm drain fees shall be billed to the owner or occupant of the premises on the same bill on which the water is billed to said owner or occupant. Such combined bill for water consumed for sewer service charges and for storm drain fees shall be paid in its entirety and may not be severed for the separate payment of any portion thereof.

Where the premises consume water from a source other than the City's water system, the sewer service charge and storm drain fee shall be billed to the owner or occupant of the premises in a separate bill.

In the event the owner or occupant of any premises shall be delinquent in the payment of a sewer service charge or storm drain fee, the City is authorized to discontinue water and sewer service in the same manner provided in the Municipal Code for delinquent water bills.

(Amended 7-31-2000 by O-18828 N.S.)

§64.0409 Sewer Service Charge— Applicant's Guarantee Deposit

- (a) Guarantee deposits are required from all applicants for sewer service who are not the legal or equitable owners of the property to be served, except applicants for domestic sewer service.
- (b) The City shall have the right to require deposits from the owner or occupant of any premises who has allowed his bill for sewer service charge to become delinquent or who does not have an acceptable credit rating, in the same manner provided in the Municipal Code for water service deposits.
- (c) Deposits shall be equal to the estimated amount of two (2) billing periods of sewer service charges.

(Amended 7-31-2000 by O-18828 N.S.)

§64.0410 Sewer Capacity Charge

When any person, firm, corporation or other entity shall request a new sewer connection, an additional connection, a larger connection or in any other way increase the flow into the sewer by the addition of an equivalent family unit or units, a minimum capacity charge as established from time to time by a resolution of the City Council shall be paid; provided, however, that prior to considering any change in said sewer service charge by resolution as aforesaid, a notice of the proposed change shall be posted by the City Clerk at least ten (10) days prior to consideration of such a resolution by the City Council. This charge shall be due and payable, unless otherwise provided for by a resolution of the City Council, at the time the building permit fees are paid, or if a building permit is not required, at the time the sewer connection fees must be paid. In any case, this sewer capacity charge must be paid before the sewage flow increase is accomplished, unless otherwise provided for by a resolution of the City Council. This section shall not be construed to pertain to agreements between participating agencies in the Metropolitan Sewerage System and the City.

Any person, firm, corporation, or other entity pumping groundwater to the sewerage system, under the guidelines established by Division 5, Industrial Wastewater, shall be eligible for an industrial users wastewater discharge permit issued by the City Metropolitan Wastewater Department Industrial Waste Program, and a waiver of capacity charges, for a period of one (1) year. Upon expiration of the discharge permit issued by the City and the original waiver of capacity charges, an extension of the waiver of capacity charges for an additional one (1) year period may be granted if the individual, firm, corporation, or other entity has applied for a National Pollutant Discharge Elimination System (NPDES) Permit from the Regional Water Quality Control Board. These waivers shall run with the land to prevent subsequent waivers upon the sale or exchange of the property by the permit holder. If, upon expiration of the original permit issued by the City and the waiver of capacity charges (including a one (1) year extension if applicable), the discharge continues, capacity charges will be levied at the then current rates. Additional extensions of capacity charge waivers are not allowed. Capacity charges are not refundable. The City may, if approved by resolution of the City Council, purchase unused sewer capacity from willing property owners and sell that capacity to other property owners provided that:

- (a) the City has no obligation to purchase unused capacity;
- (b) property owners have no obligation to sell unused capacity to the City;
- (c) property owners are prohibited from selling or transferring unused capacity to other property owners;

(12-2019)

- (d) the City does not sell unused capacity for an amount less than the amount that the City paid to purchase the unused capacity; and
- (e) the purchase and sale of unused capacity does not adversely affect the operation or maintenance of the City's wastewater system.

(Amended 11-28-1994 by O-18111 N.S.)

(Retitled from "Capacity Charge" to "Sewer Capacity Charge" and amended 11-20-2019 by O-21155 N.S.; effective 12-20-2019.)

§64.0411 Sewer Rates — Adjustments

The sewer rates established in this Article shall be adjusted as necessary by the City Manager to compensate proportionately for any increase in the cost of energy purchased by the City. Notice of such increase in sewer rates shall be given by the City Manager to the City Council by report and to the public by publication once in the City Official Newspaper on or before the thirtieth (30th) day prior to the effective date of such increase.

(Amended 10-7-1991 by O-17699 N.S.)

Article 4: Wastewater**Division 5: Industrial Wastewater***("Industrial Wastewater")**added 6-6-1983 by O-15984 N.S.)***§64.0500 Application to Industrial Wastewater Control Program**

- (a) Any *person*, municipality, sanitation district, or governmental agency desiring to dispose *industrial wastewater* into the *wastewater system*, or to increase an existing *Discharge*, or to conduct an industrial process that is potentially regulated under a *Pretreatment Standard* shall submit an application to the City on a form prescribed by the City Manager. The application shall include, in units and terms appropriate for evaluation:
- (1) the name, address, and standard industrial classification number of the applicant;
 - (2) the volume of *wastewater* to be disposed, including information demonstrating the capacity fees for the volume of *wastewater* have been or will be paid to the City;
 - (3) the *wastewater* constituents and characteristics, including those listed in section 64.0510, as determined and measured by a laboratory approved by the City;
 - (4) the times of day and duration of the *wastewater* disposal to the *wastewater system*;
 - (5) the average and thirty-minute peak *wastewater* flow rates, including daily, monthly, and seasonal variations, if any;
 - (6) a description of activities, facilities, and industrial processes on the premises, including all materials that are or could be disposed of or transported to the *wastewater system*; and
 - (7) any other information determined by the City Manager to be necessary to evaluate the application.
- (b) The City Manager may require an applicant to provide additional information and may inspect an applicant's treatment systems, plumbing layout, and other processes necessary to evaluate an application.

- (c) If the City Manager determines that a proposed disposal of *industrial wastewater*, by itself or in combination with other *wastewater*, could not cause *interference*, *pass-through*, or adversely affect the operation or maintenance of the *wastewater system*, the City Manager may approve the application without issuing an *industrial user permit* or *discharge authorization*.
- (d) The City Manager may require *Industrial Users* to submit applications under section 64.0500 if the City Manager determines it is necessary to prevent *interference*, *pass-through*, or to prevent an adverse effect to the operation or maintenance of the *wastewater system*.
- (e) The City Manager may deny an application or condition a permit if the capacity fees for the volume of *wastewater* proposed for disposal to the *wastewater system* have not been paid.
- (f) Unless approved under section 64.0502, it is unlawful for any *person*, municipality, sanitation district, or governmental agency to dispose of *industrial wastewater* into the *wastewater system* without an *industrial user permit*, a *discharge authorization*, or an approved application as required by this Division.

(Amended 11-14-2000 by O-18880 N.S.)

(Retitled from “Waste Disposal – Permit Required” to “Application to Industrial Wastewater Control Program” and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0501 Industrial User Permit

- (a) A permit is required for disposal of *industrial wastewater* into the *wastewater system* if the disposal, by itself or in combination with other *wastewater*, could cause *pass-through*, *interference*, or adversely affect the operation or maintenance of the *wastewater system* or have an industrial process that is potentially regulated under a *Pretreatment Standard*.
- (b) All *industrial user permits* shall include or require:
 - (1) the date the permit is effective;
 - (2) the date the permit expires;
 - (3) a statement that the permit may not be sold, transferred or assigned;

- (4) *best management practices* and effluent limits based on federal, state, and local requirements;
 - (5) self-monitoring, sampling, reporting, notification, and record retention requirements, in accordance with 40 C.F.R. 403.8(f)(1)(iii)(B)(4) and this Division; and
 - (6) a statement of applicable civil and criminal penalties for violations.
- (c) *Industrial user permits* may also require:
 - (1) *pretreatment of industrial wastewater* before entering the *wastewater system*;
 - (2) the development of a compliance schedule for the installation of technology;
 - (3) restriction of peak flow;
 - (4) disposal of *industrial wastewater* only to specified sewers of the City, including relocation of an existing connection to the *wastewater system*;
 - (5) prohibition of certain *wastewater* components or *pollutants*;
 - (6) restriction of *wastewater* disposal to certain hours of the day;
 - (7) control of *slug discharges*;
 - (8) payment of additional charges to reimburse costs incurred by the City as a result of the *Industrial User*; and
 - (9) any other conditions necessary to prevent *pass-through*, *interference*, or to prevent an adverse effect to the operation or maintenance of the *wastewater system*.
- (d) An *industrial user permit* can be issued for any duration up to five years, but shall not exceed five years from the effective date of the permit.
- (e) It is unlawful to discharge *industrial wastewater* in violation of the terms or conditions in an *industrial user permit*.

- (f) Any *person*, municipality, sanitation district, or government agency desiring to dispose of *industrial wastewater* in a manner that is not in conformance with the *industrial user permit* shall submit an application pursuant to section 64.0500 explaining why a new or revised *industrial user permit* is needed.
- (g) A schedule of annual *industrial user permit* fees will be established from time to time by resolution of the City Council to recover the cost of services under this Division, provided a notice of the proposed resolution to change the annual permit fee schedule is posted by the City Clerk at least 10 days prior to the consideration of the resolution by City Council.

(Amended 11-14-2000 by O-18880 N.S.)

(Retitled from “Permit for Industrial Wastewater Discharge to “Industrial User Permit” and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0502 Discharge Authorization

- (a) Notwithstanding section 64.0501, if the City Manager determines that standardized *discharge authorizations* are sufficient to regulate certain industrial wastestreams, the City Manager may issue *discharge authorizations* instead of *industrial user permits* if all of the following criteria are met:
 - (1) the operations are the same or similar to operations regulated under an *industrial user permit*;
 - (2) the *Discharge* involves the same types of waste regulated under an *industrial user permit*;
 - (3) the same effluent limitations are required for those regulated under an *industrial user permit*; and
 - (4) the same or similar sampling and monitoring are required for those regulated under an *industrial user permit*.
- (b) All *discharge authorizations* shall include the requirements of section 64.0501(b).
- (c) A *discharge authorization* shall not exceed five years.
- (d) It is unlawful to dispose of *industrial wastewater* in violation of the terms or conditions in a *discharge authorization*.

- (e) Any *person*, municipality, sanitation district, or governmental agency desiring to dispose of *industrial wastewater* in a manner that is not in conformance with the *discharge authorization* shall submit an application pursuant to section 64.0500 explaining why a new or revised *discharge authorization* or *industrial user permit* is needed.

(Retitled to “Discharge Reports, Procedures, and Certifications” and amended 11-14-2000 by O-18880 N.S.)

(Retitled from “Discharge Reports, Procedures, and Certifications” to “Discharge Authorization” and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0503 Categorical Pretreatment Standards and Reports

- (a) *Industrial Users* shall comply with *Categorical Pretreatment Standards* within three years of the date the *Categorical Pretreatment Standard* becomes effective, or the date specified in each *Categorical Pretreatment Standard*, whichever is sooner. *New Sources* shall have equipment necessary to comply with *Categorical Pretreatment Standards* installed and operational prior to disposal of *industrial wastewater* and shall comply with *Categorical Pretreatment Standards* within the shortest feasible time, not to exceed 90 days.
- (b) *Industrial Users* with *industrial wastewater* subject to *Categorical Pretreatment Standards* and a current *Discharge* or scheduled to *Discharge* to the *wastewater system* shall submit a baseline report to the City Manager in accordance with 40 C.F.R. 403.12(b) within 180 days after the effective date of the *Categorical Pretreatment Standard*, or 180 days after the final administrative decision made upon a category determination submission under 40 C.F.R. 403.6(a)(4), whichever is later. *New Sources* and existing *Industrial Users* that will begin a *Discharge* subsequent to the promulgation of applicable *Categorical Pretreatment Standards* shall submit a baseline report to the City Manager in accordance with 40 C.F.R. 403.12(b) at least 90 days prior to commencement of *Discharge*.
- (c) Existing *Industrial Users* subject to *Categorical Pretreatment Standards* and a current *Discharge* or scheduled to *Discharge* to the *wastewater system* shall submit a compliance report to the City Manager in accordance with 40 C.F.R. 403.12(d) within 90 days after the deadline for final compliance. *New Sources* and existing *Industrial Users* that will begin a *Discharge* subsequent to the promulgation of an applicable *Categorical Pretreatment Standard*, shall submit a compliance report to the City Manager in accordance with 40 C.F.R. 403.12(d) within 90 days after commencement of *Discharge*.

- (d) *Industrial Users* subject to *Categorical Pretreatment Standards* shall submit periodic reports to the City Manager in compliance with 40 C.F.R. 403.12(e) in the months of June and December annually, or as required by *Categorical Pretreatment Standards* or the City Manager, whichever is the most frequent.
- (e) The reports required by section 64.0503(a) through (d) shall include the results of sampling and analysis in accordance with 40 C.F.R. 403.12(g).
- (f) The reports required by section 64.0503(a) through (d) shall include the certification statement required by 40 C.F.R. 403.12(l).

(“Permit Application” added 6-6-1983 by O-15984 N.S.)

(Retitled from “Permit Application” to “Categorical Pretreatment Standards and Reports” and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0504 Other Reporting Requirements

- (a) *Significant Industrial Users* not subject to *Categorical Pretreatment Standards* shall submit periodic reports in accordance with 40 C.F.R. 403.12(h) on a frequency determined by the City Manager, but no less than once every six months, describing the nature, concentration, and flow of *pollutants* being discharged, and demonstrating compliance with any required *best management practices*.
- (b) All *Industrial Users* shall promptly notify the City Manager in advance of any substantial change in the volume or character of *pollutants* in their *Discharge*, including the listed or characteristic hazardous wastes for which the *Industrial User* has submitted initial notification under section 64.0504(c).
- (c) All *Industrial Users* shall notify the City Manager, the EPA Regional Waste Management Division Director, and California State hazardous waste authorities in writing of any *Discharge* of a substance, which if otherwise disposed of, would be a hazardous waste under 40 C.F.R. part 261. Such notification must satisfy the requirements of 40 C.F.R. 403.12(p).
- (d) In addition to reporting requirements in section 64.0504, the *Industrial User* shall provide all applicable reports described in 40 C.F.R. 403.12(c), including compliance schedules for meeting *Categorical Pretreatment Standards*, compliance schedule progress reports, reports on compliance with *Categorical Pretreatment Standard* deadlines, and final compliance reports.

(7-2026)

- (e) Signatory requirements for *Industrial User* reports set forth at 40 C.F.R. 403.12(l) are incorporated by reference and shall apply to all permit applications and periodic reports on continued compliance submitted to the City Manager.
- (f) Any *person* signing reports submitted under section 64.0503 or 64.0504 shall make the following certification: “I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines or imprisonment for knowing violations.”

(“Permit Conditions” added 6-6-1983 by O-15984 N.S.)

(Retitled from “Permit Conditions” to “Other Reporting Requirements” and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0505 Changes to Permits

The terms and conditions of *industrial user permits* and *discharge authorizations* are subject to modification and change by the City at any time in accordance with changes to federal, state, and local requirements and restrictions. The City Manager shall notify affected *persons* with *industrial user permits* at least 30 days prior to the effective date of any change.

Persons with *industrial user permits* must be in compliance by the time specified in the change to federal, state, or local requirement or restriction, specified in this Division, or when specified by the City Manager, whichever deadline occurs first.

(“Duration of Industrial Wastewater Discharge Permits” added 6-6-1983 by O-15984 N.S.)

(Retitled from ““Duration of Industrial Wastewater Discharge Permits” to “Changes to Permits” and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0506 Industrial Wastewater Sampling and Measurements

- (a) The City Manager shall establish the type and frequency of sampling required of each *Industrial User* necessary to ensure compliance with applicable *Pretreatment Requirements*. If an *Industrial User* performs sampling of a type or frequency exceeding the requirements of the City Manager, the results of such sampling shall be included in the reports required by section 64.0503 and 64.0504(a). The City Manager may require an *Industrial User* to install, operate, and maintain, at the *Industrial User's* expense, automatic flow-proportional sampling equipment and automatic analysis and recording equipment if necessary to perform accurate sampling.
- (b) The reports required by sections 64.0503 and 64.0504(a) shall be based upon all data collected through appropriate sampling and analysis performed during the period covered by the report, and such data shall be representative of conditions occurring during the reporting period. *Industrial Users* shall comply with the procedures and requirements for sampling, analysis, and submittal in 40 C.F.R. 403.12(g)(3) through (6).
- (c) If sampling indicates a violation of the *industrial user permit* or *discharge authorization*, the permittee shall notify the City within 24 hours of becoming aware of the violation. The *Industrial User* shall also repeat the sampling and analysis and submit the results to the City Manager within 30 days after becoming aware of the violation unless re-sampling is not required pursuant to 40 C.F.R. 403.12(g)(2).
- (d) Every *Industrial User* shall install, operate, and maintain, at its own expense, one or more calibrated flumes, weirs, flow meters, or similar devices approved by the City Manager to measure *wastewater* flow rates and total volume, if such measurements are required by the *industrial user permit* or *discharge authorization*. In lieu of measurement, the City Manager may accept records of water usage if such records can be used to accurately determine *wastewater* flow rates and volume. If a measuring device cannot be installed on the *Industrial User's* premises, the City Manager may require the *Industrial User* to install the device in the public right of way if it will not be obstructed by landscaping or vehicles. The *Industrial User* shall install measuring devices prior to *Discharge*, or by the date determined by the City Manager if measuring devices are being installed to measure existing *Discharge*.
- (e) Federal, state, and local regulatory agencies, the City, and their representatives may enter the premises of a *person* with an *industrial user permit* at any time *wastewater* is being disposed to inspect *pretreatment* processes, sampling, measuring devices, or to collect *wastewater* samples for analysis.

(7-2026)

- (f) *Persons with industrial user permits* shall permit the City Manager to install and operate sampling and measuring devices on their premises as necessary to confirm that the permittee's sampling and measuring devices are accurate.

(“Industrial Wastewater Sampling and Measurements” added 6-15-2026 by O-22104 N.S.; effective 7-15-2026. Former Section 64.0506 “Transfer of an Industrial Wastewater Discharge Permit or Changed Use” renumbered to Section 64.0508.)

§64.0507 Confidentiality

- (a) Under 40 C.F.R. 403.8(f)(vii) and 40 C.F.R. 403.14, a *person* submitting information under this Article may claim that information submitted to the City Manager is confidential. The *person* must claim the information is confidential at the time of submission in the manner prescribed on the application form or instructions, or in the case of other submissions or reports, by stamping the words “confidential business information” on each page containing such information. If no claim is made at the time of submission, the City Manager may make the information available to the public without further notice. If a *person* claims information is confidential, the information will be treated in accordance with the procedures in 40 C.F.R. part 2.
- (b) Under 40 C.F.R. 403.14, effluent data provided to, or in the possession of, the City Manager under this Division is not confidential and may be made available to the public without restriction.
- (c) Any plan submitted to the Industrial Wastewater Control Program for review is not confidential and may be made available to the public without restriction.

(“Confidentiality” added 6-15-2026 by O-22104 N.S.; effective 7-15-2026. Former Section 64.0507 “Revocation of Industrial Wastewater Discharge Permit” renumbered to Section 64.0509.)

§64.0508 Non-Transferability of Permits

Industrial user permits, discharge authorizations, and trucked waste permits are not transferable. An application for a new industrial user permit, discharge authorization, or trucked waste permit must be submitted to the City Manager prior to the sale, lease, transfer or assignment of the premises or operation for which an industrial user permit, discharge authorization, or trucked waste permit was issued.

(“Transfer of an Industrial Wastewater Discharge Permit or Changed Use” added 6-6-1983 by O-15984 N.S.)

(Renumbered from former Section 64.0506 to Section 64.0508, retitled from “Transfer of an Industrial Wastewater Discharge Permit or Changed Use” to Non-Transferability of Permits” and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026. Former Section 64.0508 “Industrial Wastewater Discharge Permit Fee” repealed.)

§64.0509 Revocation of Permits

- (a) In addition to any remedies available in Chapter 1, Article 2 of this Code, the City Manager may revoke an *industrial user permit, discharge authorization, or trucked waste permit* with at least 30 days prior written notice if a permittee:
 - (1) fails to factually report the *wastewater* constituents and characteristics of its *Discharge*;
 - (2) fails to report significant changes in operations, or *wastewater* constituents and characteristics;
 - (3) refuses reasonable access to the permittee’s premises for the purpose of inspection or monitoring;
 - (4) violates the terms or conditions of the *industrial user permit, discharge authorization, or trucked waste permit*; or
 - (5) denies or unreasonably delays access to the *Industrial User*’s premises by a federal, state, or local regulatory agency, the City, or their representatives, exercising authority under sections 64.0506(e) and (f).
- (b) The City Manager may immediately revoke an *industrial user permit, discharge authorization, or a trucked waste permit* upon written notice if the City Manager determines *wastewater* is an imminent danger to the environment, the health and welfare of the public, or the operation of the *wastewater system*.

- (c) An *Industrial User* may appeal the revocation of its *industrial user permit*, *discharge authorization*, or trucked waste permit by submitting a written protest to the City Manager within 20 days after receipt of the notice of revocation. The protest must set forth the legal and factual basis for appealing the revocation. Failure to submit a timely written protest will be deemed a waiver of the *Industrial User's* appeal. The City Manager shall issue a written decision on the appeal within 20 days after receipt of the appeal. If the City Manager fails to issue a written decision within 20 days, the appeal will be deemed denied. A revocation issued due to a violation enumerated in section 64.0510(b) shall remain in effect while any appeal is pending. The City Manager's written decision on appeal or deemed denial after 20 days is the final administrative action. Judicial review of the final written decision shall be governed by the California Code of Civil Procedure section 1094.6.
- (d) The revocation procedure does not limit or prohibit any remedies available under Chapter 1 of this Code.

("Revocation of Industrial Wastewater Discharge Permit" added 6-6-1983 by O-15984 N.S.)

(Renumbered from former Section 64.0507 to Section 64.0509, retitled from "Revocation of Industrial Wastewater Discharge Permit" to "Revocation of Permits" and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026. Former Section 64.0509 "Sampling, Self-Monitoring and Flows" repealed.)

§64.0510 Prohibited Discharges

- (a) General Prohibitions

It is unlawful for a *person* to introduce any *pollutant* or *wastewater* into the *wastewater system* which by itself or in combination with other *wastewater* could cause *pass through* or *interference*, or adversely affect the operation and maintenance of the *wastewater system*.

- (b) Specific Prohibitions

It is unlawful to dispose any of the following into *wastewater system*:

- (1) Any pollutant which creates a fire or explosion hazard in the *wastewater system*, including wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 C.F.R. § 261.21.

- (2) Any wastestream containing toxic or poisonous solids, liquids, or gases in such quantities that, alone or in combination with other substances, cause acute health and safety problems for humans, animals, or the local environment.
- (3) Any *pollutant* which will cause corrosive structural damage to structures, equipment, or other physical facilities of the *wastewater system*, but in no event any wastestream with pH lower than 5.0, without written permission from the City Manager.
- (4) Any solid or viscous substance or other matter of such quality, size, or quantity that it may cause obstruction to flow in the sewer or be detrimental to proper *wastewater system* operations. These objectionable substances include asphalt, dead animals, offal, ashes, sand, mud, straw, industrial process shavings, metal, glass, rags, feathers, tar, wood, whole blood, paunch manure, bones, hair and fleshings, entrails, fatty acids, grease and oil, paper dishes, paper cups, milk containers, or other similar paper products, either whole or ground.
- (5) Any *pollutant*, including oxygen demanding pollutants (e.g. BOD), released in a *Discharge* at a flow rate and/or *pollutant* concentration which will cause *interference*.
- (6) Any rainwater, storm water, groundwater, street drainage, subsurface drainage, roof drainage, yard drainage, water from yard fountains, ponds or lawn sprays, or any other uncontaminated water.
- (7) Any wastestream having a temperature higher than 150 degrees Fahrenheit (65.5 degrees Celsius), or at a temperature which causes the influent to the *wastewater* treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius).
- (8) Fats, oils, and greases of animal or vegetable origin in a concentration that exceeds 500 mg/L.
- (9) Any *pollutant* with an unreasonably strong odor or which may create unreasonably strong odors.
- (10) Any wastestream containing over 1.0 mg/l of dissolved sulfides.
- (11) Any wastestream with a pH equal to or greater than 12.5 standard units.

- (12) Any *pollutant* which results in the presence of toxic gases, vapors, or fumes within the *wastewater* conveyance or treatment system in a quantity that may cause acute worker health and safety problems.
- (13) Any *pollutant* requiring an excessive quantity of chlorine or other chemical compound used for disinfection purposes.
- (14) Any excessive amounts of deionized water, steam condensate, distilled water, or single pass cooling water.
- (15) Any trucked or hauled *pollutants*, except at discharge points designated by the City.
- (16) Any radioactive material, except where:
 - (A) a *person* is authorized to use radioactive materials by the State Department of Health or other governmental agency empowered to regulate the use of radioactive materials, and
 - (B) the radioactive material is discharged in strict conformity with current federal law as incorporated by state law, Cal. Code Regs., title 17, § 30253, and the Nuclear Regulatory Commission for safe disposal.
- (17) Any *pollutant* producing excessive discoloration of the *wastewater* treatment plant effluent.
- (18) Any toxic materials including all heavy metals, cyanide, phenols, chlorinated hydrocarbons, and other organic compounds unless limited to that concentration which complies with all local, state, and federal discharge limitations, and which does not cause *interference* or *pass-through*.
- (19) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause *interference* or *pass-through*.
- (20) *Hydrolysate*, wastes, or *wastewater* resulting from *hydrolysis*.

(Retitled to “Prohibited Discharges and Local Limits” and amended 11-14-2000 by O-18880 N.S.)

(Renumbered from former Section 64.0512 to Section 64.0510, retitled from “Prohibited Discharges and Local Limits” to “Prohibited Discharges” and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026. Former Section 64.0510 “Pretreatment” renumbered to Section 64.0512.)

§64.0511 Industrial Wastewater Control Program

- (a) The City Manager shall establish an Industrial Wastewater Control Program to:
- (1) administer and enforce Divisions 3 and 5 of this Article;
 - (2) develop, administer, and enforce specific *local limits* and *best management practices* as necessary to implement the prohibitions in section 64.0510;
 - (3) develop, administer, and enforce a local *pretreatment* program, including *pretreatment* to comply with *local limits*;
 - (4) prepare and submit reports as required by state and federal regulatory agencies; and
 - (5) perform any other duties that reduce harmful or toxic discharges to the *wastewater system*.
- (b) The Industrial Wastewater Control Program may perform these duties outside the City limits at the request of another public agency with sewers that connect to the *wastewater system*. If the City does not perform these duties, the other public agency shall perform these duties itself in accordance with this Article and any *local limits*, *best management practices*, and *pretreatment* programs developed by the City, as a condition of maintaining its connection to the *wastewater system*.
- (c) *Local limits* are not enforceable until approved by the *EPA* or the San Diego Regional Water Quality Control Board.
- (d) To the extent it does not contradict terms continued within this Article, the Industrial Wastewater Control Program Enforcement Response Plan, as approved by the City Manager, is incorporated by reference to this Article.

(“Industrial Wastewater Control Program” added 6-15-2026 by O-22104 N.S.; effective 7-15-2026. Former Section 64.0511 “Protection from Slug Discharges” renumbered to Section 64.0513.)

§64.0512 Pretreatment

- (a) The City Manager may require *pretreatment* of *wastewater* to reduce the amount of *pollutants*, eliminate *pollutants*, or alter the nature of *pollutant* properties in *wastewater* prior to or in lieu of *Discharge* or otherwise introducing such *pollutants* into the *wastewater system*. The reduction or alteration may be obtained by physical, chemical, or biological processes, process changes, or by other means, except as prohibited by 40 C.F.R. 403.6(d).
- (b) Acceptable *pretreatment* technology includes control equipment, such as equalization tanks or facilities, for protection against surges or *slug discharges* that could cause *interference*, *pass-through*, or otherwise disrupt the *wastewater system*. If *wastewater* from a regulated process is mixed in an equalization facility with unregulated *wastewater* or with *wastewater* from another regulated process, the effluent from the equalization facility must meet an adjusted *pretreatment* limit calculated in accordance with 40 C.F.R. 403.6(e).
- (c) *Persons* with *industrial user permits* required to use *pretreatment* shall:
- (1) install, operate, and maintain the *pretreatment* equipment at their sole expense;
 - (2) submit detailed plans, schedules, and operating procedures to the City Manager for review and approval before installation of the equipment. The City Manager's review or approval shall not relieve an *Industrial User* permittee's responsibility for complying with an *industrial user permit* or *discharge authorization*; and
 - (3) submit any subsequent changes in the *pretreatment* facilities or method of operation to the City Manager for approval.
- (d) *Persons* with an *industrial user permit* shall not increase the use of process water or in any way attempt to dilute a *Discharge* as a partial or complete substitute for adequate *pretreatment* to achieve compliance with any local, state, or federal *Standard*, including *National Pretreatment Standards* set forth at 40 C.F.R., Chapter I, Subchapter N, Parts 405 to 499, and incorporated by reference, and *local limits* and requirements developed to implement the General and Specific Prohibitions set forth in section 64.0510. The City Manager may impose mass limitations on *Industrial Users* which are using dilution to meet applicable *Pretreatment Standards* or *Pretreatment Requirements*, or in other cases where the imposition of mass limitations is appropriate.

*(Amended 11-14-2000 by O-18880 N.S.)
("Pretreatment" renumbered from former Section 64.0510 to Section 64.0512 and
amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026. Former Section 64.0512
"Prohibited Discharges and Local Limits" renumbered to Section 64.0510.)*

§64.0513 Protection from Slug Discharges

- (a) *Slug discharges* are prohibited. *Significant Industrial Users* shall:
- (1) install, operate, and maintain equipment to prevent *slug discharges* at their own cost and expense;
 - (2) permanently post a notice on a bulletin board or other prominent place advising employees who to contact in the event of a *slug discharge*; and
 - (3) regularly instruct or advise all employees who may cause, allow, or observe a *slug discharge* of any emergency notification and response procedures.
- (b) The City Manager shall, upon deciding that the potential for a *slug discharge* of harmful or prohibited materials exists, require that a *Significant Industrial User* develop and implement a *slug discharge* control plan, which at a minimum, shall satisfy the requirements of 40 C.F.R. Part 403.8(f)(2)(vi)(A) through (D).
- (c) A *Significant Industrial User* shall immediately notify the City Manager of any changes at its facility affecting the potential for a *slug discharge*.
- (d) A *Significant Industrial User* shall immediately notify the City Manager of any *slug discharges*. The notification shall include location of *slug discharge*, type of waste, concentration and volume, and corrective actions. Within five days following a *slug discharge*, *Significant Industrial Users* shall submit to the City Manager a detailed written report describing the cause of the *slug discharge* and the measures to be taken by the *Significant Industrial User* to prevent future occurrences. Nothing herein will relieve the *Significant Industrial User* of any liability, expense, fines, or penalties resulting from a *slug discharge*.

(7-2026)

(Retitled to “Protection from Slug Discharges” and amended 11-14-2000 by O-18880 N.S.)

(“Protection from Slug Discharges” renumbered from former Section 64.0511 to Section 64.0513 and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026. Former Section 64.0513 “Limitations of the Use of Garbage Grinders” renumbered to Section 64.0514.)

§64.0514 Garbage Grinders

Waste from garbage grinders shall not be disposed of into the *wastewater system* except for waste generated in preparation of food normally consumed on the premises, or where an *industrial user permit* has been issued to use a garbage grinder connected to the *wastewater system*.

As a permit condition of using a garbage grinder, *Industrial Users* must undertake self-monitoring sufficient to enable the City Manager to determine the sewer service charges based on the waste constituents and characteristics. Such grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the *wastewater system*.

Garbage grinders connected to the *wastewater system* shall not be used for grinding plastic, paper products, inert materials, or garden refuse.

(“Limitations of the use of Garbage Grinders” added 6–6–1983 by O–15984 N.S.) (Renumbered from former Section 64.0513 to Section 64.0514, retitled from “Limitations of the use of Garbage Grinders” to “Garbage Grinders” and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026. Former Section 64.0514 “Discharge of Water Softener Brines Prohibited in Certain Areas of the City repealed.)

§64.0515 Liquefiers

Liquefiers, also referred to as biodigesters or wet systems, are industrial devices that reduce food waste to a slurry using some combination of grinding, shredding, agitating, biological agents, temperature, and water. Liquefiers shall not be directly or indirectly connected to the *wastewater system*.

(“Limitations on Point of Discharge” added 6–6–1983 by O–15984 N.S.) (“Retitled from “Limitations on Point of Discharge” to “Liquefiers” and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0516 Availability of the City's Wastewater Facilities

The City Manager may deny or condition new or increased *wastewater* if sufficient capacity is not available in the *wastewater system*. When requested, the City Manager will advise *persons* desiring to locate new facilities as to the areas where *industrial wastewater* of their proposed quantity and quality can be received by the *wastewater system*.

*(“Availability of the City’s Wastewater Facilities” added 6–6–1983 by O-15984 N.S.)
(Amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)*

§64.0517 Chemical Oxygen Demand or Suspended Solids Increases

An *Industrial User* shall immediately notify the City Manager in writing if chemical oxygen demand or suspended solids are being discharged at a flow rate or concentration that exceeds the amount upon which the *Industrial User’s* sewer service charge is based by 15 percent or more. The City Manager may require the *Industrial User* to submit a new application in accordance with section 64.0501. The City Manager shall recalculate the sewer service charge for an *Industrial User* who exceeds the amount of chemical oxygen demand or suspended solids upon which the *Industrial User’s* sewer service charge is based by 15 percent or more. Before these charges shall be assessed at least two additional 24-hour samples and flow measurements shall be obtained by the City Manager with all costs of sampling and analyses to be paid by the *Industrial User*. The City Manager shall consider the data obtained in these samplings along with any other relevant information obtained by the City Manager or presented by the *Industrial User* in determining the new sewer service charge. The City Manager may pursue back charges for sewer service from an *Industrial User* who exceeds the amount of chemical oxygen demand or suspended solids upon which the *Industrial User’s* sewer service charge is based by 15 percent or more.

*(“Discrepancies Between Actual and Reported Industrial Wastewater Discharge Permit Quantities” added 6–6–1983 by O-15984 N.S.)
(Retitled from “Discrepancies Between Actual and Reported Industrial Wastewater Discharge Permit Quantities” to “Chemical Oxygen Demand or Suspended Solids Increases” and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)*

§64.0518 Trucked Waste Permit

- (a) A trucked waste permit is required to dispose of *wastewater* from a transport truck into the *wastewater system* and from generators of *non-domestic wastewater* that use a transport truck to transport *wastewater* to the *wastewater system*. All applicants for a trucked waste permit shall complete the application form provided by the City Manager and pay the appropriate permit fee as established from time to time by City Council resolution. A trucked waste permit shall not exceed one year.
- (b) The City Manager shall designate locations in the *wastewater system* where *wastewater* may be disposed of by *persons* with a valid trucked waste permit. The City Manager may deny access to any *person* with *wastewater* that by itself or in combination with other *wastewater*, could cause *interference, pass-through*, or adversely affect the operation or maintenance of the *wastewater system*.
- (c) The City Manager shall require payment for treatment and disposal costs from *persons* with trucked waste permits based on treatment and disposal costs approved by City Council resolution.
- (d) It is unlawful for any *person* to dispose of *wastewater* from a truck into the *wastewater system* without a valid trucked waste permit, or to discharge the *wastewater* at any location other than those designated by the City Manager for the type of *wastewater*.

(“Trucker’s Discharge Permit” added 6-6-1983 by O-15984 N.S.)

(Retitled from “Trucker’s Discharge Permit” to “Trucked Waste Permit” and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0519 Records Retention

Persons required to have an *industrial user permit*, a *discharge authorization*, or a trucked waste permit, shall retain and preserve all records, including documents, data, photographs, reports, correspondence, and any and all summaries thereof, relating to measuring, *pretreatment*, monitoring, sampling, and chemical analyses of their wastestream and *best management practices* for at least three years. If a *person* has been notified by the City Manager that the *person* has violated a provision of this Article, no such records may be destroyed or otherwise disposed of until after the matter is resolved and any appeals exhausted.

(7-2026)

Persons shall permit federal, state, and local regulatory agencies, the City, and their representatives to inspect and copy such records during normal business hours.

(“Records Retention” added 6-6-1983 by O-15984 N.S.)

(Amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0520 Public Notice of Significant Noncompliance

The City Manager shall annually publish the identity of *Industrial Users* who, at any time during the previous calendar year, were in *Significant Noncompliance* with applicable *Pretreatment Standards* and *Pretreatment Requirements* under 40 C.F.R. 403.8(f)(2)(viii). Publication shall be made in one or more newspapers of general circulation that provide meaningful public notice within the area serviced by the *wastewater system*.

(Added 11-14-2000 by O-18880 N.S.)

(Retitled from “Publication of Industrial Users in Significant Noncompliance” to “Public Notice of Significant Noncompliance” and amended 6-15-2026 by O-22104 N.S.; effective 7-15-2026.)

§64.0521 Industrial Users Electronic Reporting Compliance

- (a) The City may use electronic transmission, including electronic signatures, to send, receive, and enforce industrial wastewater discharge reports and other documents, provided that the City Manager develops policies and procedures that include the following:
- (1) A method to verify all reports, permits, and signatures are authentic;
 - (2) A method to certify all signatures and electronic submissions are enforceable under penalty of civil and criminal code;
 - (3) A method to ensure that electronic documents cannot be altered after they are signed, including in transmission and after receipt;
 - (4) A method to ensure that any individual signatory is authorized to electronically sign on behalf of permit holders; and
 - (5) A method to ensure that any reports or documents that the City is required to submit to the EPA comply with the submission requirements in 40 C.F.R. 3 Subpart B, as may be amended.

- (b) Any person submitting discharge reports or other documentation to the City by electronic transmission shall certify the authenticity of their signature and ability to sign for the permit holder through a subscriber agreement.
- (c) Discharge reports or other documentation submitted by electronic transmission under section 64.0521 shall be enforceable in the same manner as paper submittals, including through imposition of civil and criminal penalties. Any electronic signature shall legally bind and obligate the signatory and any person on whose behalf the signatory is signing, to the same extent as the signatory's handwritten signature on a paper document.

(“Industrial Users Electronic Reporting Compliance” added 11-6-2023 by O-21738 N.S.; effective 12-6-2023.)