



## ORDINANCE NO. 28761

1 AN ORDINANCE relating to clean water; repealing, reenacting, and recodifying  
2 Chapter 12.08 of the Tacoma Municipal Code as new Subchapters 12.08A,  
3 “General Administration”; 12.08B, “Use of Sanitary Sewer”; 12.08C,  
4 “Industrial Wastewater Pretreatment Program”; and 12.08D, “Stormwater  
5 Management”; providing for enforcement and severability; establishing an  
6 effective date of July 1, 2021; and adopting the City of Tacoma Side Sewer  
7 and Sanitary Sewer Availability Manual.

8 WHEREAS Chapter 12.08 of the Tacoma Municipal Code (“TMC”),  
9 Wastewater and Surface Water Management – Regulation and Rates, sets forth  
10 the requirements for users of the City of Tacoma stormwater system and sanitary  
11 sewer system, including the general pretreatment regulations applicable to  
12 industrial users, and

13 WHEREAS TMC Chapter 12.08 was last repealed and recodified in 1984,  
14 and combines stormwater, sanitary sewer, and pretreatment regulations within a  
15 single chapter, and

16 WHEREAS, in March 2016, Puget Soundkeeper Alliance (“PSA”) filed an  
17 enforcement action against the City under 33 U.S.C. § 1365 of the Clean Water  
18 Act, alleging that the City’s pretreatment program was not in compliance with the  
19 City’s wastewater National Pollutant Discharge Elimination System permits and  
20 the Clean Water Act, and

21 WHEREAS the City and PSA entered into a consent decree which, among  
22 other things, provided that the City would submit its pretreatment program to audit  
23 by CWA Consulting Services, LLC, including a review of TMC Chapter 12.08, and

24 WHEREAS the auditor found that TMC Chapter 12.08 was difficult to search  
25 for applicable pretreatment program requirements; that pretreatment and  
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stormwater requirements were merged, resulting in confusing requirements; and  
1 that the chapter lacked organization, and

2 WHEREAS the auditor recommended that TMC Chapter 12.08 be  
3 separated into three individual sections, one for pretreatment, one for general  
4 sewer use requirements, and one for stormwater regulations, and that the  
5 pretreatment program requirements be amended to conform to current regulatory  
6 requirements, and  
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8 WHEREAS the Environmental Services (“ES”) Department has undertaken  
9 to separate TMC Chapter 12.08 into four new subchapters, and to update the  
10 pretreatment program requirements to conform to current regulatory requirements,  
11 and  
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13 WHEREAS the pretreatment provisions of proposed TMC Chapter 12.08C,  
14 “Industrial Wastewater Pretreatment Program,” have been reviewed by the auditor  
15 and have undergone both informal and formal review and approval by the  
16 Department of Ecology, and  
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18 WHEREAS the ES Department made presentations regarding the proposed  
19 amendments to the Environmental Services Commission in 2019 and 2021; to the  
20 Pierce County Dental Society Board of Trustees on May 1, 2018; to Industrial  
21 wastewater discharge permittees on October 17, 2019; to the City Council during  
22 the October 15, 2019, Study Session; and to the Infrastructure, Planning, and  
23 Sustainability Committee on February 10, 2021, and has met with the Port of  
24 Tacoma to discuss proposed TMC Chapter 12.08C, and  
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1 WHEREAS the City Council finds that it is in the best interest of the public  
2 health, safety, and welfare to repeal, reenact, and recodify TMC Chapter 12.08 as  
3 Subchapters 12.08A, "General Administration"; 12.08B, "Use of Sanitary Sewer";  
4 12.08C, "Industrial Wastewater Pretreatment Program"; and 12.08D, "Stormwater  
5 Management," and to adopt the Side Sewer and Sanitary Sewer Availability  
6 Manual; Now, Therefore,

7 BE IT ORDAINED BY THE CITY OF TACOMA:

8 Section 1. That Chapter 12.08 of the Tacoma Municipal Code ("TMC") is  
9 hereby repealed in its entirety and reenacted and recodified as Subchapters  
10 12.08A, "General Administration"; 12.08B, "Use of Sanitary Sewer"; 12.08C,  
11 Industrial Wastewater Pretreatment Program"; and 12.08D, "Stormwater  
12 Management," all as set forth in Exhibits A, B, C and D, which exhibits are  
13 incorporated as though fully set forth herein.  
14

15 Section 2. That the Side Sewer and Sanitary Sewer Availability Manual on  
16 file with the City Clerk is hereby adopted as the City of Tacoma Side Sewer and  
17 Sanitary Sewer Availability Manual, as that term is defined at  
18 TMC Section 12.08B.050.  
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20 Section 3. That the City Clerk, in consultation with the City Attorney, is  
21 authorized to make necessary corrections to this ordinance, including, but not  
22 limited to, the correction of scrivener's/clerical errors, references, ordinance  
23 numbering, section/subsection numbers, and any references thereto.  
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25 Section 4. That, if any subsection, sentence, clause or phrase of this  
26 ordinance is for any reason held to be invalid or unconstitutional by a court of



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competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter, which shall remain in full force and effect. The City Council hereby declares that it would have adopted this ordinance and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the article would be subsequently declared invalid or unconstitutional.

Section 5. That this ordinance, and each exhibit hereunder, shall become effective on July 1, 2021.

Passed \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Chief Deputy City Attorney

# EXHIBIT "A"

## SUBCHAPTER 12.08A GENERAL ADMINISTRATION

### Sections:

- 12.08A.010 Administration – general authority.
- 12.08A.020 Defined terms.
- 12.08A.030 Promulgation and publication of rules.
- 12.08A.040 Delegation of authority.
- 12.08A.050 Exercise of discretion.
- 12.08A.060 Incorporation of statutes and regulations by reference.
- 12.08A.070 Liability - duty.
- 12.08A.080 No special benefit.
- 12.08A.090 References in Tacoma municipal code.
- 12.08A.100 Plan review, approvals, and permits.
- 12.08A.110 Contracts with the state, sewer or water districts and other jurisdictions.
- 12.08A.120 Environmental services conservation loan program.
- 12.08A.130 Utility reimbursement agreements: wastewater and stormwater utility improvements.
- 12.08A.140 Appeals of decisions and determinations.

### **12.08A.010 Administration – general authority.**

The control authority is authorized to administer, implement, and enforce the provisions of TMC Chapters 12.08A, 12.08B, 12.08C and 12.08D in accordance with the authority granted therein.

### **12.08A.020 Defined terms.**

For the purposes of this chapter, terms used in this chapter that are defined in TMC Chapters 12.08B, 12.08C or 12.08D, shall be given the same meaning as those terms are given in each such chapter.

### **12.08A.030 Promulgation and publication of rules.**

#### A. Purpose.

The purpose of this section is to establish the administrative process for promulgation and publication of policies, procedures, guidance, requirements, and manuals, and amendments and supplements thereto, intended to implement, supplement, interpret or guide compliance with the requirements of TMC Chapters 12.08A, 12.08B, 12.08C and 12.08D.

#### B. When Effective.

A policy, procedure, guidance, requirement, or manual, or an amendment or supplement thereto, intended to implement, supplement, interpret or guide compliance with the requirements of TMC Chapters 12.08A, 12.08B, 12.08C or 12.08D, shall be effective upon the effective date set forth therein or, if not set forth therein, the date the Director's signature is affixed thereto.

#### C. Format.

The Director shall promulgate requirements regarding the printed or electronic format, style and arrangement for those policies, procedures, guidance, requirements, and manuals, and amendments and supplements thereto, to be promulgated by the Director.

#### D. Publication.

The Director shall promulgate procedures ensuring that true and correct copies of all policies, procedures, guidance, requirements, and manuals, and amendments and supplements thereto, as promulgated by the Director, are made available to the public.

**12.08A.040 Delegation of authority.**

The Director is authorized to promulgate, implement, amend, supplement and enforce such policies, procedures, requirements, and manuals, and to issue such guidance, as are reasonable and necessary to implement and ensure compliance with TMC Chapters 12.08A, 12.08B, 12.08C and 12.08D; provided that, such policies, procedures, requirements, guidance, and manuals shall not be inconsistent with the provisions of TMC Chapters 12.08A, 12.08B, 12.08C and 12.08D, the City’s pretreatment program, the City’s wastewater NPDES permits, the City’s municipal stormwater NPDES permit, the City’s Stormwater Management Program policies and procedures, the SWMM, and applicable federal and state laws and regulations. Any such policy, procedure, guidance, requirement, or manual promulgated by the Director, and any amendments or supplements made thereto, shall be made available to the public in accordance with TMC 12.08A.030. The Director may delegate authority to enforce the provisions of TMC Chapters 12.08A, 12.08B, 12.08C and 12.08D to such person or persons as the Director may designate from time to time.

**12.08A.050 Exercise of discretion.**

Discretionary authority granted pursuant to the provisions of TMC Chapters 12.08A, 12.08B, 12.08C or 12.08D shall be exercised in a reasonable manner and consistent with the purpose, scope, and intent of TMC Chapters 12.08A, 12.08B, 12.08C and 12.08D and the provisions thereof granting such authority.

**12.08A.060 Incorporation of statutes and regulations by reference.**

Except as may be otherwise provided therein, and when not inconsistent with the context, a reference in TMC Chapters 12.08A, 12.08B, 12.08C or 12.08D to a federal or state statute or regulation, or section thereof, which requires compliance with the same or which defines a term, phrase or word, shall operate to incorporate such statute or regulation, or section thereof, and any subsequent amendments thereto, by reference as though fully set forth in each such chapter. If a specific provision of law or regulation referred to in TMC Chapters 12.08A, 12.08B, 12.08C or 12.08D shall be renumbered, re-codified, or amended, then the reference shall be read to refer to the renumbered, re-codified, or amended provision.

**12.08A.070 Liability – Duty.**

While TMC Chapters 12.08A, 12.08B, 12.08C and 12.08D authorize the City of Tacoma and its officials, officers, employees and agents to administer the foregoing chapters, such authorization shall not be construed as placing responsibility for compliance, or as creating any duty, on the part of the City or any City official, officer, employee or agent to any particular case or to any particular person or class of persons. TMC Chapters 12.08A, 12.08B, 12.08C and 12.08D shall be enforced for the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons. Nothing contained in TMC Chapters 12.08A, 12.08B, 12.08C and 12.08D is intended, nor shall be construed, to create or form the basis of any liability on the part of the City, its officials, officers, employees or agents, for any injury or damage resulting from any act or omission on the part of the City, its officials, officers, employees or agents.

**12.08A.080 No special benefit.**

TMC Chapters 12.08A, 12.08B, 12.08C and 12.08D do not create or otherwise establish or designate any particular class or group of persons who will or should be specially protected or benefited by the provisions of this chapter.

**12.08A.090 References in Tacoma Municipal Code.**

A. Any reference in the Tacoma Municipal Code to TMC Chapter 12.08 shall, as applicable, mean and refer to one or more of the following: TMC Chapters 12.08A; 12.08B; 12.08C; or 12.08D.

B. Any reference in the Tacoma Municipal Code to the “City of Tacoma stormwater management manual,” “City of Tacoma stormwater manual,” “stormwater management manual,” or “SWWM,” shall, unless the context indicates a different meaning should apply, mean and refer to the stormwater management manual as that term is defined at TMC 12.08D.040.

C. Any reference to the term “surface water” in the Tacoma Municipal Code shall mean and refer to stormwater, unless the term surface water has been given a defined meaning in the chapter or title where the term “surface

water” is used, e.g., TMC Chapters 13.01, 13.06 and 13.11, or the context indicates a different meaning should apply.

#### **12.08A.100 Plan review, approvals, and permits.**

Permits and approvals for activities or projects regulated under TMC Chapters 12.08B, 12.08C and 12.08D may be issued pursuant to the applicable sections of the above referenced chapters, Titles 2 and 13 of the Tacoma Municipal Code, and other relevant and applicable provisions of the Tacoma Municipal Code. Prior to the commencement of any activities or projects regulated pursuant to TMC Chapters 12.08B, 12.08C, or 12.08D, plans shall be submitted to the appropriate City department for its review and approval under the applicable sections of the above referenced chapters, Titles 2 and 13 of the Tacoma Municipal Code, and other relevant and applicable provisions of the Tacoma Municipal Code. All applicable permits and approvals shall be obtained for such activities and projects prior to commencing such activities or projects. Plans shall comply with all applicable provisions of TMC Chapters 12.08B, 12.08C and 12.08D, including required mitigation actions. Approvals and permits granted under TMC Chapters 12.08B, 12.08C and 12.08D shall not have the effect of waiving the requirements of any other laws and regulations, nor do they indicate compliance with any other laws and regulations. Persons conducting activities or projects regulated under TMC Chapters 12.08B, 12.08C and 12.08D shall comply with all applicable federal and state laws and regulations, and local ordinances including requirements and procedures promulgated under authority of this chapter and TMC Chapters 12.08B, 12.08C and 12.08D.

#### **12.08A.110 Contracts with the state, sewer or water districts and other jurisdictions.**

##### A. Contracts to Discharge to POTW.

Whenever the control authority determines that adequate capacity exists in the POTW, the City may if requested, contract with the state, or other jurisdiction to allow for the discharge of wastewater or stormwater into the POTW upon such terms and conditions, including the payment of all applicable charges established by ordinance or resolution of the City Council, and for such periods of time as the control authority deems reasonable. Except for discharges of limited duration, agreements with the state and other jurisdictions entered into pursuant to this section may be governed by the Interlocal Cooperation Act, Chapter 39.34 RCW, and shall include terms and conditions the control authority deems appropriate to govern such discharges. The City may contract with other jurisdictions to discharge wastewater or stormwater into public sewer systems located outside the Tacoma city limits when the control authority determines it is beneficial for the City to do so.

##### B. Contracts to discharge to municipal stormwater system.

Whenever, in the view of the control authority, the municipal stormwater system has adequate capacity, the City may enter into an agreement with the state, or another jurisdiction for the discharge of stormwater into the City’s municipal stormwater system from any state property or right-of-way, or property or right-of-way located within another local jurisdiction. Except for discharges covered under a special approved discharge permit, agreements with other jurisdictions to discharge stormwater into the City’s municipal stormwater system may be governed by the Interlocal Cooperation Act, Chapter 39.34 RCW, and shall include terms and conditions the control authority deems appropriate to govern such discharges.

#### **12.08A.120 Environmental services conservation loan program.**

There is established in the City a program to be known as the “Environmental Services Conservation Loan Program” (“Program”). The Treasurer of the City is hereby authorized to transfer sufficient funds from the Wastewater Management or Surface Water Management Fund, as appropriate, to the Conservation Loan Fund in order to make loans for wastewater service or stormwater management purposes. Disbursement of funds from the Conservation Loan Fund shall be made in the manner as provided by law.

Moneys allocated to the Conservation Loan Fund are to be used exclusively to provide loans for City of Tacoma wastewater service or stormwater service customers to purchase and install materials and equipment that help conserve conveyance and treatment capacity in the City’s municipal stormwater or sanitary sewer system and/or reduce pollution in discharges to the wastewater treatment plants or receiving waters. Except as otherwise provided by law, loans shall be secured by a lien against the benefited property or a security interest in the equipment benefited, and the Conservation Loan Fund shall be sustained by borrower payments, which shall include reasonable interest. The Director shall determine, promulgate and administer the policies, procedures and operation of the

Program. The Director is authorized to implement any and all remedies to collect the payments for the loans, which may include foreclosure of the liens and/or security interests, as well as terminating water service to the premises.

### **12.08A.130 Utility reimbursement agreements; wastewater and stormwater utility improvements.**

#### A. Purpose.

This section describes requirements for entering into utility reimbursement agreements pursuant to RCW Chapter 35.91 (Municipal Water and Sewer Facilities Act); provided that, nothing herein is intended to prohibit the City from establishing an assessment reimbursement area pursuant to the provisions of RCW 35.91.060. In the event of a conflict between a provision, term or condition of this section and RCW Chapter 35.91, the provision, term or condition of RCW Chapter 35.91 shall control to the extent of the conflict.

#### B. Definitions.

As used in this section, the terms listed below shall be defined as follows:

“Administrative costs” means and refers to those fees that are reasonable and proportionate to the total expense incurred by the City to comply with the provisions of TMC 12.08A.130.

“Applicant” means and refers to any eligible owner of real property submitting a request to the City for improvements that the property owner elects to install solely at the owner’s expense.

“Benefitted property(ies)” means and refers to those parcels of real property located in the utility reimbursement area that benefit from the improvements; provided that, such improvements are subject to a valid utility reimbursement agreement.

“Cost of construction” means and refers to those costs incurred for design, acquisition for right-of-way and/or easements, construction, materials, and installation required in order to create an improvement which complies with City standards. Until such time as RCW Chapter 35.91 is amended to expressly authorize inclusion of interest charges or other financing costs, such expenses shall not be included in the calculation of construction costs. In the event of a disagreement between the City and the applicant concerning the cost of the improvement, the Control authority’s determination shall be final.

“Improvement(s)” means and refers to all sanitary sewer and stormwater facility improvements and appurtenances required by the City to be constructed or improved as a prerequisite to development of applicant’s property and that provide benefits to properties within the utility reimbursement area.

“Project” means and refers to the proposed development of the real property subject to the utility reimbursement agreement for which the improvements are required as a prerequisite to development.

“Utility reimbursement agreement” means and refers to a written contract between the City and the applicant providing for partial reimbursement by owners of benefitted property to the applicant for the applicant’s construction of the improvements.

“Utility reimbursement area” means and refers to the area consisting of the benefitted properties.

“Sanitary Sewer and stormwater facilities” shall have the same meaning as given under RCW Chapter 35.91 as it now reads or as hereafter amended.

#### C. Eligibility.

The following requirements must be met for an owner of real property to be eligible for a utility reimbursement agreement:

1. Construction of the improvements must be a prerequisite under the Tacoma Municipal Code to further development of the real property;
2. The application must be submitted prior to project approval for the improvements;
3. The improvements must be located within the City municipal boundary, or in Pierce County within ten miles of the City municipal boundary;
4. The application fees must be paid; and



5. A completed application must be filed with the control authority.

D. Application.

An application for a utility reimbursement agreement shall be made on a form provided by the City. Applications submitted to the City shall include the following attachments:

1. Preliminary utility design drawings;
2. Itemized estimate of construction costs prepared and signed by a licensed civil engineer or in the form of a bid submitted by a qualified contractor (if more than one bid has been obtained, all bids must be submitted to the City);
3. A scaled vicinity drawing, stamped by a licensed civil engineer or licensed land surveyor depicting the improvements and their location and the proposed benefited area, including dimensions and county assessor's numbers for each tax parcel, size of parcels, and evaluations where necessary for determining benefits;
4. The proposed list of benefitted properties stating the proposed reimbursement amount;
5. A complete list of record owners of benefitted property certified as complete and accurate by the applicant and which states names, mailing addresses and Tax parcel numbers for each such owner;
6. Envelopes addressed to each of the record owners of benefitted property who have not contributed their pro rata share of such costs. Proper postage for certified mail shall be affixed or provided;
7. A separate legal description for each parcel of benefitted property;
8. Such other information as the control authority determines is necessary to properly review the application; and
9. An application fee determined by the Director to recover the City's administrative costs to process the application.

E. Length of Reimbursement Provision.

No utility reimbursement agreement shall provide for a reimbursement period longer than twenty (20) years from the date of final acceptance of the improvements by the City unless an extension is granted as provided under RCW Chapter 35.91.

F. Control Authority's Determination.

1. The control authority shall review all complete applications and shall approve the application only if the following requirements are met:
  - a. The project satisfies the minimum project requirements that apply pursuant to TMC Chapter 12.08B, 12.08C and 12.08D and the applicable development regulations including those set forth at TMC Chapters 2, 9, 10, and 13, and applicable City standards;
  - b. The proposed improvements fall within the description of sanitary sewer or stormwater facilities, as those terms are defined at RCW Chapter 35.91;
  - c. The application was made prior to project approval for the improvements; and
  - d. The proposed improvements are consistent with the Comprehensive Plan of the City of Tacoma as adopted and updated pursuant to RCW Ch. 36.70A.
2. In the event all of the above criteria are not satisfied, the control authority may condition approval, as necessary, in order for the application to conform to such criteria, or shall deny the application. The final determination of the control authority shall be in writing.

G. Determination of utility reimbursement area boundary and reimbursement fee.

In the case of all approved applications, the control authority shall define the utility reimbursement area based upon a determination of the benefitted properties that did not contribute to the original cost of the improvements and which may subsequently tap into or use the same, including not only those which may connect directly thereto, but also those who may connect to laterals, branches, or pump stations connecting thereto. The control authority shall for each benefitted property, determine the pro-rata share of the estimated and final construction costs so that each benefitted property will be assessed a utility reimbursement fee for a share of the costs of the improvements that is proportional to the benefits accruing to each such benefitted property. The utility reimbursement fee shall be

calculated by dividing the area of the benefitted property being connected to the improvement by the overall area that is benefited by the improvements; this amount shall be multiplied by the cost of construction of the improvements.

H. Utility reimbursement agreement must be recorded.

A utility reimbursement agreement shall not be effective until it is recorded with the office of the Office of the Pierce County Auditor. It shall be the sole responsibility of the beneficiary of the utility reimbursement agreement to record the utility reimbursement agreement and provide a copy of the recorded utility reimbursement agreement, with the Auditor's recording number, to the control authority.

I. Written agreement—city payment of city costs in excess of application fee.

1. Upon approval of the application, determination of the estimated cost of construction, the utility reimbursement area, and estimated administrative costs by the control authority, the Applicant shall sign a utility reimbursement agreement in the form supplied by the City. The signed agreement, the application, and supporting documents, together with the control authority's estimate of the cost of construction and determination of utility reimbursement area and estimated administrative costs shall be drawn into a written agreement between the City and the applicant.

2. In the event that costs incurred by the City for engineering or other professional consultant services required in processing the application exceed the amount of the application fee, execution of the agreement shall be conditioned upon receipt of payment by the applicant of an additional amount sufficient to compensate the City for its costs in excess of the application fee.

3. The utility reimbursement agreement shall include, but is not limited to, the following as a condition precedent to applicant's connection of the improvements to the City's sanitary sewer system:

a. A condition that the improvements will be constructed in accordance with plans and specifications approved by the City;

b. A condition that the applicant will be in full compliance with applicant's obligations under the utility reimbursement agreement and with the City's applicable development regulations;

c. A condition that, upon the City's inspection and approval, all right, title and interest in and to the improvements shall be transferred without cost to the City, by warranty bill of sale with terms and conditions approved by the control authority;

d. A condition that applicant provide sufficient security, as reasonably determined by the control authority, (e.g. a performance and payment bond and a two-year maintenance bond), to ensure completion of the improvements and performance of other obligations of applicant under the utility reimbursement agreement;

e. A condition that applicant shall reimburse the control authority for the City's costs associated with the improvements, including engineering, legal and administrative costs;

f. A condition providing that the control authority shall have the right to verify and approve all contracts and costs related to the improvements;

g. A condition that the property owner entitled to reimbursement under the utility reimbursement agreement, provide the City, every two years, with information regarding the current name, address, and telephone number of the person that originally entered into the utility reimbursement agreement; that if the property owner fails to comply with such notification requirements within sixty days of the specified time, the City may collect any reimbursement funds owed to the property owner under the contract; and, the funds collected shall be deposited in the capital fund of the City sanitary sewer and stormwater utilities;

h. A warranty that the applicant is the owner of the real property subject to development;

i. A condition that, within 120 days of the completion of the improvements and acceptance by the City, the applicant shall submit to the City the documentation and declaration as required pursuant to subsection TMC 12.08A.130(J)(1);

j. A condition that the utility reimbursement fees will be adjusted to reflect the total costs of the improvements; and

k. A condition that the utility reimbursement agreement shall not be effective until it is recorded with the Office of the Pierce County Auditor.

J. Construction and acceptance of improvement—recording of final fees.

1. After the utility reimbursement agreement has been signed by both parties and all necessary permits, approvals and easements have been obtained, the applicant shall construct the improvements and, upon completion, request final inspection and acceptance of the improvements by the City, subject to any required obligation to repair defects. A warranty bill of sale, easement, and any other document needed to convey the improvements to the City free and clear of any and all encumbrances and to ensure right of access for maintenance and replacement, shall be provided in a form and content approved by the City Attorney, or designee. Applicant shall, within one hundred and twenty days of completion of the improvement(s), submit documentation of the actual costs of the improvements to the City together with a declaration under oath by the applicant that all of such costs are true and correct costs of the improvements and have been paid.

2. The control authority shall recalculate the utility reimbursement fees and shall cause a revised list of utility reimbursement fees to be recorded with the Office of the Pierce County Auditor.

K. Notice to property owners.

Prior to execution of any contract with the City establishing a utility reimbursement agreement, the control authority, shall provide notice, via certified mail, to all record owners of benefitted properties, as defined by the City on the basis of information and material supplied by the applicant, stating the preliminary boundaries of the utility reimbursement area and estimate utility reimbursement fees along with substantially the following statement: “As a property owner within the utility reimbursement area, whose preliminary boundaries are enclosed with this notice, you or your heirs and assigns will be obligated to pay, under certain circumstances, a pro rata share of construction and contract administration costs of the certain sanitary sewer or stormwater utility project that has been preliminarily determined to benefit your property. The preliminary determination of such pro rata share is also enclosed with this notice. You or your heirs and assigns shall be required to pay said pro rata share, based upon actual project costs, before any development permits are issued for development on your property within 20 years of the date that a contract establishing such area is recorded with the Office of the Pierce County Auditor, provided your development would have required similar sanitary sewer or stormwater utility improvements as a condition of approval. You have the right to request a hearing before the Director within twenty (20) days of the date of this notice. All such requests shall be made in writing and filed with the City Clerk. After the utility reimbursement agreement has been recorded, it shall be binding on all owners of record of benefitted properties who are not a party to the utility reimbursement agreement.” The hearing may be held open until after the applicant has submitted to the City its declaration of the total cost of the improvements.

L. Collection of reimbursement fees.

1. Within 15 days of the biennial anniversary of execution of the utility reimbursement agreement, the applicant shall provide the City with the current name and mailing address of the owners of the benefitted property and the current mailing address of the original applicant and for any new owner, as applicable.

2. Subsequent to the recording of a utility reimbursement agreement, the City shall not permit connection of any benefitted property to any sanitary sewer or stormwater facility constructed pursuant to the utility reimbursement agreement, unless the share of the costs of such facilities required by the recorded agreement is first paid to the City.

3. Upon receipt of any utility reimbursement fees, the City shall deduct a 15 percent administrative fee to recover its administrative costs and remit the balance of the utility reimbursement fees to the party entitled to the fees pursuant to the utility reimbursement agreement. In the event that, through error, the City fails to collect a required reimbursement fee prior to approval of connection to a sanitary sewer or stormwater facility, the City shall make diligent efforts to collect such fee, but shall under no circumstances be obligated to make payment to the applicant entitled to reimbursement, or in any other way be liable to such party, unless such reimbursement fee has actually been paid to the City.

M. Segregation of reimbursement fees.

The utility reimbursement agreement shall provide that the City is authorized to make segregation or adjustments to reimbursement fees because of subdivision or boundary line adjustment of the benefitted properties. The segregation or adjustment shall generally be made in accordance with the method used to establish the original reimbursement fees. Segregation or adjustment shall not increase or decrease the total reimbursement fees to be paid.

N. Disposition of undeliverable reimbursement fees.

In the event that, after reasonable effort, the party to which the reimbursement fees are to be paid, pursuant to a utility reimbursement agreement, cannot be located and upon the expiration of one hundred eighty (180) days from the date the fees were collected by the City, the fees shall become the property of the City and shall be revenue to the City's sanitary sewer and stormwater utilities.

O. Rights and nonliability of the City.

The City reserves the right to enter into any utility reimbursement agreement or to reject any application thereof. All applications for a utility reimbursement agreement shall be made on the basis that the applicant releases and waives any claims for any liability of the City in establishment and enforcement of utility reimbursement agreements. The City shall not be responsible for locating any beneficiary or survivor entitled to benefits by or through utility reimbursement agreements.

P. City funding.

As an alternative to financing projects under this section solely by owners of real estate, the City may join the financing of improvement projects and may be reimbursed in the same manner as in the owners of real estate to participate in the projects, if the City has specified the conditions of its participation in an ordinance. As another alternative, the City may create a utility reimbursement area on its own initiative, without the participation of a private property owner, finance the cost of the stormwater or sanitary sewer utility improvements, and become the sole beneficiary of the reimbursements that are contributed. The City may be reimbursed only for the cost of the improvements that benefit that portion of the public who will use the improvements within the utility reimbursement area established pursuant to this section. No City costs for the improvement that benefits the general public may be reimbursed.

Q. Control authority's action.

If any owner of benefitted property submits a request for a hearing to the City Clerk in writing within twenty (20) days of the mailing of the property owner notification, a hearing shall be held before the Director, notice of which shall be given to all affected owners of benefitted property in addition to the regular notice requirements specified by this code, the cost of which shall be borne by the applicant. At the hearing, the Director shall take testimony from affected property owners and make a final determination of the area boundaries, the amount of assessments, length of time for which reimbursement shall be required, and shall authorize the execution of appropriate documents. The Director may hold the hearing record open until after the applicant has submitted to the control authority its declaration of the total cost of the improvements. The Director's ruling of these matters at the conclusion of the hearing is determinative and final, and is subject to administrative appeal to the Hearing Examiner pursuant to TMC 12.08A.140. An appeal of the decision of the Hearing Examiner must be filed within 21 days of issuance of the Hearing Examiner's final decision. If no hearing is timely requested, the control authority may consider and take final determinative action on these matters.

**12.08A.140 Appeals of decisions and determinations.**

A. The term decision or determination as used in this section shall mean and refer to a discretionary decision made by the control authority under authority of TMC Chapter 12.08A, 12.08B, 12.08C or 12.08D, but shall not mean or refer to, (1) the promulgation or publication of policies, procedures, guidelines, requirements, or manuals intended to implement, supplement, interpret or guide compliance with the requirements of TMC Chapters 12.08A, 12.08B, 12.08C or 12.08D, or (2) enforcement actions taken pursuant to TMC Chapters 12.08B, 12.08C or 12.08D. Appeals of enforcement actions are governed by TMC Chapter 1.82.

B. Appeals of decisions or determinations made by the control authority pursuant to TMC Chapter 12.08A, 12.08B, 12.08C or 12.08D are governed by the following provisions.

1. Any person aggrieved or adversely affected by a decision or determination made by the control authority under authority of TMC Chapter 12.08A, 12.08B, 12.08C or 12.08D, who wants to contest such decision or determination, shall file a written appeal with the Hearing Examiner setting forth the errors of law or fact alleged to have been made, and request a hearing within thirty (30) days of receipt of such final decision or determination.

2. The Hearing Examiner shall conduct a hearing in the appeal of a decision or determination by the control authority pursuant to the requirements of TMC 1.23, and the City of Tacoma Office of Hearing Examiner Rules of Procedure for Hearing.

3. The burden of proof in such hearings shall be governed by TMC 1.23.070.C.

4. In exercising such powers of review, the Hearing Examiner may, in conformity with the applicable provisions of TMC Chapter 12.08A, 12.08B, 12.08C or 12.08D, reverse or affirm the control authority's decision or determination in whole or in part, or may modify the decision or determination and make such order as appears just to the Hearing Examiner.

5. A person is aggrieved or adversely affected within the meaning of this section only when all three of the following conditions are present:

a. The decision or determination of the control authority has prejudiced or is likely to prejudice that person;

b. That person's asserted interests are among those that the control authority was required to consider when it engaged in the decision or determination challenged; and

c. A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the decision or determination of the control authority.

## **EXHIBIT “B”**

### **SUBCHAPTER 12.08B** **USE OF SANITARY SEWER**

Sections:

#### **GENERAL PROVISIONS**

- 12.08B.010 Purpose and application.
- 12.08B.020 Administration.
- 12.08B.030 Mandatory sewer service.
- 12.08B.040 Abbreviations.
- 12.08B.050 Definitions.

#### **GENERAL SEWER USE**

- 12.08B.100 Prohibited discharges.
- 12.08B.110 Limitations on the use of garbage grinders.
- 12.08B.120 Limitations on point of discharge.
- 12.08B.130 Metering devices.
- 12.08B.140 Domestic wastewater from outside the City.
- 12.08B.150 Side Sewer and Sanitary Sewer Availability Manual.

#### **RATES AND FEES**

- 12.08B.200 Types of rates and fees.
- 12.08B.210 Rates and fees for wastewater service inside City limits.
- 12.08B.220 Rates and fees for direct wastewater services for properties outside the City.
- 12.08B.230 Connection charge-in-lieu-of-assessment.
- 12.08B.240 Billing periods, payments, and collections.
- 12.08B.250 Rates and fees for special approved discharges.
- 12.08B.260 Fixed-term discharges of groundwater “pump and treat” effluent to the POTW.
- 12.08B.270 Discharge of domestic wastewater from holding tanks.
- 12.08B.280 Rates and fees for TAGRO.
- 12.08B.290 Pilot Rate Program.
- 12.08B.300 Regular review of wastewater rates and fees.
- 12.08B.310 Reconsideration of wastewater rates.
- 12.08B.320 Rates and fees for monitored users.
- 12.08B.330 Rates and fees for commercial/industrial wastewater user groups.
- 12.08B.340 Liability for supplemental fees.

#### **RIGHT OF ENTRY AND CONFIDENTIALITY**

- 12.08B.400 Right of entry.
- 12.08B.410 Confidential information.

#### **ENFORCEMENT REMEDIES**

- 12.08B.500 Violations, enforcement, and penalties.
- 12.08B.510 Suspension of service.
- 12.08B.520 Unauthorized connection – misdemeanor.
- 12.08B.530 Side sewer condition education requirement.

#### **MISCELLANEOUS PROVISIONS**

- 12.08B.600 Environmental Services Conservation Loan Program.

## **GENERAL PROVISIONS**

### **12.08B.010 Purpose and application.**

This Chapter sets forth uniform requirements for persons discharging domestic wastewater to the POTW to comply with all applicable federal and state laws and regulations, local ordinances, and this chapter. This Chapter shall apply to all persons discharging domestic wastewater to the POTW, and to any person needing to make a connection to the POTW. Persons that discharge non-domestic wastewater to the POTW may also be subject to the requirements of TMC Chapter 12.08C.

The purpose of this chapter includes, but is not limited to the following:

A. To protect the POTW by preventing the introduction of pollutants to the POTW that may interfere with its operation, or be incompatible with, or otherwise cause damage to the POTW;

B. To prevent the introduction of pollutants to the POTW that will pass through if inadequately treated prior to discharge into receiving waters;

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

D. To enable the City to comply with its NPDES Permit conditions, federal and state requirements applicable to biosolids use and disposal, and any other federal or state laws and regulations to which the POTW is subject; and

E. To require persons regulated by this chapter, and TMC Chapter 12.08C to pay applicable rates and fees to reasonably distribute the cost to operate, maintain, and improve the POTW.

### **12.08B.020 Administration.**

#### A. Administration.

The control authority shall administer this chapter in accordance with the purposes set forth herein and applicable federal and state laws, regulations, and applicable City ordinances, policies, and procedures. In the event there is a conflict between this chapter and: (a) a provision contained within it; (b) a permit issued by the City; or (c) an applicable federal or state law or regulation, the requirement(s) that are more protective of human health and the environment shall apply.

#### B. Responsibility for Compliance.

It is the intent of this chapter to place the responsibility for complying with its requirements, and any control mechanism, authorization or approval granted pursuant to this chapter, upon the responsible person, as that term is defined in this chapter.

#### C. Appeals of Decisions and Determinations.

Appeals of decisions or determinations made by the control authority pursuant to this chapter are governed by TMC 12.08A; provided that, appeals of enforcement actions taken pursuant to this chapter are governed by TMC Chapter 1.82.

#### D. Liberal Construction.

The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter.

### **12.08B.030 Mandatory sewer service.**

A. All domestic wastewater shall be discharged to the POTW or to an authorized septic system. This obligation applies to the owner of premises and to persons in possession, charge or control of the premises where a discharge of wastewater originates.

B. This Chapter does not create rights for any individual or group to require construction of public sewers, connection thereto, or otherwise to receive sewer from the City. The City reserves all rights to deny, limit, or curtail service.



#### **12.08B.040 Abbreviations.**

<u>ADU</u>	<u>Accessory Dwelling Unit</u>
<u>AUF</u>	<u>Assessable unit of frontage</u>
<u>BOD<sub>5</sub></u>	<u>Biochemical Oxygen Demand</u>
<u>BMPs</u>	<u>Best Management Practices</u>
<u>cf.</u>	<u>Cubic feet</u>
<u>ccf.</u>	<u>Hundred cubic feet</u>
<u>CWA</u>	<u>Clean Water Act</u>
<u>EPA</u>	<u>United States Environmental Protection Agency</u>
<u>LID</u>	<u>Local Improvement District</u>
<u>NAICS Code</u>	<u>North American Industry Classification System Code</u>
<u>NPDES</u>	<u>National Pollutant Discharge Elimination System</u>
<u>O&amp;M manual</u>	<u>Operation and Maintenance manual</u>
<u>POTW</u>	<u>Publicly Owned Treatment Works</u>
<u>RCW</u>	<u>Revised Code of Washington</u>
<u>TMC</u>	<u>Tacoma Municipal Code</u>
<u>TSS</u>	<u>Total suspended solids</u>
<u>WAC</u>	<u>Washington Administrative Code</u>

#### **12.08B.050 Definitions.**

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein unless a different meaning is otherwise plainly required. Words not defined herein shall have the meaning given in TMC Chapter 12.08C or TMC Chapter 12.08D. Words not defined in this Title shall have the meaning given in TMC 1.82.010. Words not otherwise defined in this Title or TMC 1.82.010 shall have the meaning given in such federal and state statutes, rules, or regulations that apply to the activity being regulated. Words not otherwise defined, shall be given their common and ordinary meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The words “shall” and “will” are always mandatory and not merely directory and the word “may” is permissive. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority.

“Accessory dwelling unit” or “ADU.” A second subordinate dwelling unit located on the same lot as a single-family dwelling (hereinafter referred to as the “main dwelling”) and either within the same building as the main dwelling or in a detached building, with a provision for independent cooking, living, sanitation, and sleeping.

“Approval.” The determination by the control authority that the proposed or completed work or activity conforms to this chapter.

“Availability.” Those premises which are determined per the Side Sewer and Sanitary Sewer Availability Manual to have a wastewater sewer available for connection to the premises.

“Best management practices” or “BMPs.” Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and education practices, maintenance procedures, and structural or managerial practices to prevent or reduce the discharge of pollutants directly or indirectly to POTW.

“Biosolids.” Municipal sewage sludge resulting from the wastewater treatment process that is further treated so that it can be beneficially recycled for use as fertilizer.



“Biochemical Oxygen Demand, 5-Day” or “BOD<sub>5</sub>.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08C.

“City.” The City of Tacoma, Washington, a municipal corporation organized and existing under and by virtue of the laws of the state of Washington. The phrase “within the city” means within the City boundaries as now or hereafter constituted.

“Clean Water Act” or “CWA.” Both the federal Water Pollution Control Act, as may be amended (33 U.S.C. 1251 et seq.) and the state Water Pollution Control Act at Chapter 90.48 RCW, as may be amended.

“Cleanout.” A section of pipe that extends from the underground private side sewer to the ground surface which is used to access the private side sewer for the purposes of cleaning and inspecting the private side sewer.

“Condominium.” Real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are vested in the unit owners and unless a declaration and a survey map and plans have been recorded pursuant to RCW 64.34.

“Contributing jurisdiction.” A municipality other than the City that contributes wastewater to the POTW.

“Control authority.” The City’s Environmental Services Department, its Director and its authorized representatives.

“Control mechanism.” An industrial wastewater discharge permit, a special approved discharge authorization, a letter, a written authorization to discharge, or any other written notice of discharge requirements issued by the control authority.

“Customer.” The person responsible for paying wastewater rates.

“Days.” Unless otherwise indicated, “days” means calendar days.

“Direct connection.” Any piped connection to the private side sewer that conveys stormwater or surface water to the POTW. Examples of direct connections include roof drains, sump pumps, footing drains, area drains, yard drains, and driveway drains.

“Director.” The City’s Director of the Environmental Services Department who is designated to supervise the implementation and enforcement of this chapter or the Director’s duly authorized representative.

“Domestic user.” Any person who contributes, causes, or allows the contribution of wastewater to the POTW that is of a volume and chemical makeup similar to that of a residential dwelling unit.

“Domestic wastewater.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08C s.

“Educational flyer.” The document prepared by the City that provides educational information to property owners regarding the condition of side sewers and private ownership and maintenance responsibilities.

“Groundwater.” Water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

“Holding tank waste.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08C.

“Illicit connection.” Any unauthorized connection to the POTW.

“Industrial user.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08C.

“Industrial waste” or “non-domestic waste.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08C.

“Industrial wastewater discharge permit.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08C.

“Inflow and Infiltration” or “I&I.” Refers to groundwater or stormwater entering a POTW. Inflow refers to stormwater entering such system at points of direct connection such as footing/foundation drains, roof drains, downspouts, drains from window wells, outdoor basement stairwells, drains from driveways, groundwater/basement sump pumps, and even streams. Infiltration refers to groundwater that enters a POTW through cracks and/or leaks in the sanitary sewer pipes.

“Interference.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08C.

“Market conditions.” The range of charges and prices for products and services similar to TAGRO products and TAGRO services that are offered by vendors operating in the same marketplace as the City.

“Multiple-family residence.” Any premise consisting of two or more living units served through a single water meter.

“Noncontact cooling water.” Water that does not mix, communicate with, or come into direct contact with any raw material, intermediate product, waste product, or finished product, and to which the only pollutant added is heat.

“North American Industry Classification System Code” or “NAICS Code.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08C.

“NPDES permit.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08C.

“Owner.” Any individual, corporation, or entity that holds the title to real property as shown by the Pierce County Assessor’s records.

“Pass through.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08C.

“Person.” Any individual, partnership, co-partnership, firm, company, association, joint stock company, trust, estate, society, corporation, group, government, governmental agency or other legal entity, and their legal representatives, agents, or assigns. The definition includes all federal, state, and local government entities.

“pH.” The negative logarithm of the effective hydrogen-ion concentration or hydrogen activity in gram equivalents per liter used in expressing both acidity and alkalinity on a scale whose values run from 0 to 14, with 7 representing neutrality. Values lower than 7 are more acidic, and higher values are more alkaline.

“Pollutant.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08C.

“POTW.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08C.

“POTW Treatment Plant.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08C.

“Premises.” A continuous tract of land, building, or group of adjacent buildings under a single control with respect to use of water and responsibility for payment therefor. Subdivision of such use or responsibility shall constitute a division into separate premises as herein defined, except where more than one dwelling is being served through the same water meter, in which case, each of said dwellings shall constitute a separate premises and shall be subject to the same separate charges as if separate single-family dwellings.

“Pretreatment.” The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, discharging or otherwise introducing such pollutants to the 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 CFR Part 403.6(d).

“Private side sewer” and “side sewer.” The sewage conveyance pipe owned by the property owner that extends from approximately two feet outside of a building or structure to the connection at the POTW. In most circumstances, a portion of the private side sewer/side sewer extends into public streets or alleys connecting to the public sewer main.

“Public record.” Shall have the meaning given pursuant to RCW 42.56.010.

“Real estate professional.” The person(s) responsible for representing a buyer/seller or potential buyer/seller in the purchase transaction of a real property.

“RCW.” The Revised Code of Washington as now or hereafter amended.

“Receiving water(s).” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08D.

“Residential ratepayer.” A citizen who lives in a private residence within the City limits of Tacoma and has a wastewater utility account in their name.

“Responsible person.” Shall have the meaning as set forth in TMC 1.82.010, the Uniform Enforcement Code.

“Runoff.” Water originating from rainfall or other precipitation that is found in drainage facilities, rivers, streams, seeps, ponds, lakes, and wetlands as well as shallow groundwater. It also means the portion of rainfall or other precipitation that becomes surface flow or interflow.

“Sell” or “Transfer of Title.” The sale or transfer of an entire real property estate or the fee interest in that real property estate and does not include the sale or transfer of a partial interest, including a leasehold.

“Sanitary sewers.” Those portions of the POTW that collect and convey wastewater to a treatment plant.

“Side Sewer and Sanitary Sewer Availability Manual.” Refers to the most recent version of the Side Sewer and Sanitary Sewer Availability Manual as adopted or amended by the City Council.

“Single-family residence.”

A. Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, for use by not more than one family; or

B. Any unit within a multi-family complex which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, for use by not more than one family that are served by a separate water meter.

“Slug load.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08C.

“Source control.” Actions, activities, and the implementation of BMPs to prevent or reduce the introduction of contaminants to the POTW or stormwater drainage system. Examples include, but are not limited to: segregating or isolating waste; enclosing, covering, or containing the activity to prevent contact with stormwater; developing and implementing inspection and maintenance programs; sweeping; and taking management actions such as training employees on pollution prevention.

“Stormwater.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08D.

“Stormwater drainage system.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08D.

“Supplemental fees.” Means charges that may be assessed to a responsible person by the control authority to recover the costs it incurs to address and respond to a violation of TMC Chapter 12.08B, including, but not limited to: (i) personnel costs, both direct and indirect; (ii) costs to investigate, contain, and abate the discharge, including cleaning up any contamination caused by the discharge that may be present within the POTW, at the point of discharge, or in the receiving environment; (iii) costs to respond to a discharge causing pass through, interference, or damage to biosolids; (iv) costs to document and enforce a violation of TMC Chapter 12.08BD; (v) costs to hire a contractor(s) or consultant(s) to respond to such violations; (vi) laboratory costs and analytical expenses; (vii) costs for equipment, materials, and supplies; (viii) mobilization, transportation, treatment, storage, and disposal costs; (ix) attorney’s fees, when authorized; (x) costs required for printing or mailings; and (xi) costs to collect unpaid supplemental fees.

“Total Suspended Solids” or “TSS.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08C.

“TAGRO products.” Materials manufactured at least partly from biosolids from the City’s wastewater treatment plants. TAGRO products may include, but are not be limited to: TAGRO Cake, TAGRO Liquid, TAGRO Mix, TAGRO Potting Soil, TAGRO Mulch, and TAGRO Top Soil.

“TAGRO services.” The loading, delivery, and application of TAGRO products by the City.

“Tamper” or “tampering.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08C.

“User.” An industrial user, and any property owner, business owner, multi-family residential property owner, tenant, residential homeowner or homeowner’s association/representative group, or any other individual, company, or vessel residing and/or conducting business within Tacoma that discharges wastewater or stormwater directly or indirectly to the POTW.

“Wastewater” or “wastestream.” Liquid and water-carried industrial wastes, holding tank waste, and domestic wastes from residential dwellings, commercial buildings, industrial, and manufacturing facilities, and institutions, whether treated or untreated.

“Wastewater services.” The service provided by the POTW of collecting, conveying, treating, and disposing of wastewater.

## **GENERAL SEWER USE**

### **12.08B.100 Prohibited discharges.**

No person shall introduce or cause to be introduced to the POTW any pollutant, wastewater, or other substance or flow which either alone or by interaction with other materials causes the City to violate its NPDES permits, or cause pass through, interference, or obstructions within the City's POTW, or a POTW owned and operated by another jurisdiction.

### **12.08B.110 Limitations on the use of garbage grinders.**

Food waste from garbage grinders discharged to the POTW shall be properly shredded so that 100 percent will pass a 3/8-inch sieve and 75 percent will pass a 1/4-inch sieve. Persons engaged in the wholesale/retail sale of raw produce shall be limited to one grinder having a prime motor not exceeding five horsepower for the processing of raw produce waste. No discharge permitted by this section may contain plastic, paper products, inert material, garden refuse, or other material prohibited by this chapter.

### **12.08B.120 Limitations on point of discharge.**

No person shall discharge any substances directly or indirectly into a manhole or other opening within the POTW, unless authorized by the control authority.

### **12.08B.130 Metering devices.**

The control authority may require persons to install metering devices when necessary to accurately measure or calculate discharges to the POTW, and to measure water use from a source other than the City.

Any metering device required under this chapter shall be approved by the control authority. Persons installing a metering device shall maintain and calibrate it in a manner and frequency that ensures accuracy.

### **12.08B.140 Domestic wastewater from outside the City.**

The control authority may allow domestic wastewater from premises located outside the City's service area to be discharged to the POTW in accordance with applicable requirements established in state laws and regulations, local ordinances, agreements, and such policies, procedures, guidance, requirements, and manuals as may be promulgated by the Director.

### **12.08B.150 Side Sewer and Sanitary Sewer Availability Manual.**

All work necessary to repair, rehabilitate, replace, or construct new private side sewers shall be performed pursuant to a permit issued by the City and in accordance with the standards set forth in the Side Sewer and Sanitary Sewer Availability Manual.

## RATES AND FEES

### 12.08B.200 Types of rates and fees.

Rates and fees imposed on domestic and non-domestic users of the POTW pursuant to this chapter may include, but are not limited to the following:

A. Rates and fees to recover the City's cost to operate, maintain, and improve the POTW, administer and regulate users under the City's Pretreatment Program, and regulate domestic users of the POTW;

B. Permit and other control mechanism rates and fees;

C. Monthly fixed rates and fees;

D. Rates based on wastewater constituents, characteristics and flow;

E. Connection rates and fees;

F. Monitoring and inspection fees; and

G. Rates and fees to recover the cost of operating the TAGRO program.

### 12.08B.210 Rates and fees for wastewater service inside the City limits.

In accordance with Chapter 35.67 RCW, rates and fees shall be established for the discharge and for the availability for discharge of all wastewater to the POTW. If the control authority requires construction of an extension to the POTW prior to issuance of a side sewer permit, the rates and fees for availability for discharge shall not be assessed or charged until such time as the POTW extension is completed. Unless the water service is shut off by Tacoma Water, or unless otherwise determined by the control authority, rates and fees for wastewater service shall be assessed and billed when a premises is vacant or during a remodeling project, or similar activity. Rates and fees for wastewater services inside the Tacoma City limits shall be established by ordinance or resolution of the City Council in accordance with this chapter.

A. Each single-family residence shall be assessed and billed monthly a Residential Fixed Fee and Residential Flow Rate for wastewater service, as established by ordinance or resolution of the City Council.

The water consumption, per ccf for the Residential Flow Rate shall be the average monthly use as measured during the most recent months of December, January, February, and March. If the average consumption results in a fractional part of a ccf, the number used for calculating the flow rate shall be rounded to the nearest one-hundredth of a ccf.

B. Multiple-family residences and mobile home courts with two or more units, served through one water meter, and accessory dwelling units served through the same water meter as the main dwelling, shall be assessed and billed monthly per living unit, except that the water consumed during the winter months shall be divided by the total number of living units served by the account to determine the per living unit flow volume. If the average consumption per unit results in a fraction, the number used for calculating the flow rate shall be adjusted to the nearest one-hundredth of a ccf.

It shall be the duty of every person in possession, charge, or control of the entire premises consisting of two or more living units served by the POTW, or to which such wastewater service is available, to be accountable for payment for such wastewater service for each living unit.

Where units in multiple-unit residences are separately metered; each unit shall be charged the appropriate single-family residence rate as set forth in subsection A of this section.

C. For new residential services or account holders which have incomplete or no winter flow records available, the monthly flow portion of the Residential Flow Rate for wastewater service shall be computed using the flows listed below:

Single-family Dwellings - 6.0 ccf per month

Multiple-family Dwelling - 5 ccf per unit per month

Except that charges for existing multiple-family dwellings with previous consumption history shall not change solely due to changes in account holder or ownership.

D. Residential customers who qualify as low-income senior or low-income disabled under TMC 12.06.165(B) shall be eligible for a Residential Rate and Fee Reduction from the Residential Fixed Fee and Residential Flow Rate at a percentage as established by ordinance or resolution of the City Council. The determination of low income senior and low income disabled status shall be made as set forth in TMC 12.06.165(B). Customers seeking a wastewater service rate and fee reduction under this subsection shall submit a written request to the control authority. Such request shall include documentation demonstrating that the requester qualifies for the reduction. If the control authority grants the request, the effective date for the rate reduction shall be the first day of the billing period in which the control authority's acceptance is granted.

E. Non-residential customers shall be assessed and billed monthly a Commercial and/or Industrial User Fixed Fee and Flow Rate, as established by ordinance or resolution of the City Council. Assessment and billing for non-residential customers shall be computed and paid as follows:

#### 1. Metered Water Supply.

When billing is based upon the water usage, such rate shall be applied against the total amount of water used from all sources unless, in the opinion of the control authority, significant portions of water received are not discharged to a sanitary sewer. The total amount of water used from public and private sources will be determined by public meters or private meters, installed and maintained in accordance with applicable Environmental Services' policies, procedures, guidance, requirements and manuals promulgated by the Director, at the customer's expense. Such public or private meters shall measure flow in cubic feet (cf). Where more than one commercial/industrial facility is served by one water meter, the user group shall be determined by the activities of the largest water consumption user.

#### 2. Metered Wastewater Volume and Metered Diversions.

When billing is based upon water usage and where, in the opinion of the control authority, a significant portion of the water received from any metered source does not flow into the sanitary sewer because of the principal activity of the customer or removal by other means, the rate will be applied against the volume of water discharged from such premises into the sanitary sewer. Any customer seeking a reduction in sewer billing based on a diversion of metered water from the sanitary sewer system shall submit written proof of such diversion to the control authority for its approval. To establish reduced sewer billing based on such diversion, the customer shall, unless clearly demonstrated as impractical, install a submeter of a type and at a location approved by the control authority and at the customer's expense. A credit adjustment for sanitary sewer overcharges may be granted, upon written application by the customer, but only for the three-month period immediately preceding the submeter installation.

Such meters shall measure flow in cubic feet (cf) and shall be maintained and tested for accuracy at the customer's expense in accordance with manufacturer's specifications and applicable control authority's policies, procedures, guidance, requirements, and manuals. Within 30 days of notification by the control authority that meter repair or testing is required, the customer shall provide written confirmation that such repair or testing has been accomplished. Failure to provide such confirmation may result in sanitary sewer rates being based upon the metered water source.

#### 3. Customers Installing Irrigation Systems.

All customers installing irrigation systems shall be required to meter the water usage of the irrigation system by installing, at customer's expense, either a metered water supply dedicated solely to the irrigation system, or a submeter, which the customer shall maintain, to calculate the appropriate reduction of sewer rates.

#### 4. Estimated Wastewater Volume.

A. Customers without Source Meters. In cases where, in the opinion of the control authority, it is unnecessary or impractical to install meters, the rate calculation may be based upon an estimate of the volume to be discharged, prepared by the control authority. A rational method will be used to estimate the quantity of wastewater discharged and may consider such factors as the number of plumbing fixtures, seating capacity, population equivalent, annual production of goods and services, or such other determinations of water use necessary to estimate the wastewater volume discharged. The factors used to estimate the volume of wastewater discharge may be periodically reviewed at the discretion of the control authority.



B. Customers with Source Meters.

In cases where, in the opinion of the control authority, a customer diverts a significant portion of their flow from the POTW, the rate calculation may be based upon an estimate of the flow and volume to be discharged, prepared by the customer and approved by the control authority. The estimate must include the method and calculations used to determine the wastewater volume and may consider such factors as the number of fixtures, seating capacity, population equivalents, annual production of goods and services, or such other determinations of water use necessary to estimate the wastewater volume discharged. The estimate of the flow volume may be periodically reviewed at the discretion of the control authority and the rate adjusted accordingly.

C. When the control authority determines that the City's cost to provide wastewater service to a customer or a group of customers is higher than the City's cost to provide wastewater service to typical City customers, the control authority may impose a surcharge on such customers in an amount established by ordinance or resolution of the City Council. The control authority will notify affected customers prior to implementing the surcharge.

**12.08B.220 Rates and fees for direct wastewater services for properties outside the City.**

Persons owning premises outside the City may, upon a written request from the appropriate jurisdiction and receipt of a side sewer construction or similar permit issued by such jurisdiction if required by that jurisdiction, and a side sewer construction or similar permit issued by the control authority, discharge wastewater to the POTW.

Such permit issued by the control authority shall be issued only upon the written application of the owner of the premises and subject to the following terms and conditions:

A. The applicant for any such permit shall attach to the application a construction permit issued to the owner or to that owner's contractor by the appropriate jurisdiction for the construction of a side sewer.

B. The owner or that owner's licensed contractor shall pay all fees and obtain a permit for a side sewer in strict compliance with the City's requirements governing the construction and maintenance of side sewers then in effect. The fees include a "Connection Fee" as established by ordinance or resolution of the City Council and the connection charge in-lieu-of-assessment.

C. The owner shall agree to pay monthly Outside City Residential Fixed Fees and Outside City Residential Flow Rates for wastewater service in an amount computed based upon a percentage, as established by ordinance or resolution of the City Council, of the rates and fees assessed to similar wastewater service customers located in the City, and subject to the following:

1. If the jurisdiction where the customer is located assesses a utility tax against the revenues of the control authority derived from that customer, and/or imposes a fee on the customer that the control authority must assess and reimburse to the jurisdiction, the fixed fee assessed to such customer shall increase in an amount that covers' the added cost to the control authority, including administrative expenses, of paying the utility tax and collecting and reimbursing the added fee.

2. If the control authority determines that the City's cost to provide wastewater service to a customer or a group of customers is higher than the City's cost to provide wastewater service to typical customers located in the City, the control authority may impose a surcharge on such customers in an amount established by ordinance or resolution of the City Council. The control authority will notify affected customers prior to implementing the surcharge.

D. The owner of the premises served by the POTW shall pay an Outside City Connection Charge-in-lieu-of-Assessment to the City computed at the rate as set by ordinance or resolution of the City Council. This charge shall be computed in the same manner as sanitary sewer assessments are from time to time computed by the City under Chapter 35.44 RCW relating to local improvement districts. The cost of side sewer construction shall be the responsibility of the owner of the premises.

E. The Outside City Connection Charge-in-lieu-of-Assessment shall apply to and be credited to the benefit of a specific parcel of real property which shall be designated by legal description and shall be posted by the City to appropriate records or ledgers and made a part of the City's permanent records pertaining thereto. No further connection charge-in-lieu-of-assessment shall be collected against said premises.

F. Future service connections to premises abutting the POTW on which an Outside City Connection Charge-in-lieu-of-Assessment has not been paid but which adjoins specific premises for which such charges have been charged or paid, shall be subject to the charges as hereinabove set forth as now or hereafter amended.

G. All Outside City Connection Charges-in-lieu-of-Assessment received pursuant to the provisions of this section are nonrefundable and shall be considered capital contributions to the POTW and deposited into the Sewer Utility Fund.

H. All current ordinances, polices, procedures, guidance, requirements, and manuals relating to the use, maintenance, and connection to the POTW shall apply to each such sanitary sewer connection. Persons who violate the requirements of this chapter may be subject to suspension or disconnection of municipal sanitary sewer service, along with other enforcement remedies authorized by this chapter and state law. The owner of any premises connecting to the POTW shall, as a condition of the side sewer construction or similar permit, allow an inspection of that owner's premises by the control authority for the purpose of determining whether the connection has been properly made and whether the use of the POTW is in accordance with applicable provisions of this chapter. Refusal to grant, or revocation of, such consent shall be grounds for revocation of the side sewer construction or similar permit and disconnection of the side sewer connection at owner's cost and expense.

I. In the event of a change in ownership, or if the premises are rented, the owner or renter shall be assessed and billed and pay the rates and fees required by this chapter.

J. Pursuant to RCW 35.67.300 a contributing jurisdiction owning or operating its own sanitary sewer system may contract with the City for the discharge, treatment and disposal of wastewater from all or any part or parts of such contributing jurisdiction to the POTW, upon such terms and conditions as the City and contributing jurisdiction may agree. A contributing jurisdiction entering into such a contract with the City for the discharge, treatment and disposal of wastewater (Wastewater Treatment Services) shall pay such rates and fees as are calculated using the following formula:

Total Monthly Billing Amount = Residential Billing Amount + Commercial Billing Amount.

Residential Billing amount = Sum of ((Monthly fixed residential charge + (Quantity multiplied by the Residential flow Rate)) multiplied by Ratio of Applicability) for all residential customers as estimated by the control authority.

Commercial Billing Amount = Sum of (Monthly fixed charge + (Quantity multiplied by Commercial Flow rate for the assigned billing category)) multiplied by Ratio of Applicability) for all commercial customers as estimated by the control authority.

Monthly fixed residential charge = Monthly Fixed Charge established by ordinance or resolution of the City Council for City residential customers multiplied by the number of residential customers in the contributing jurisdiction.

Monthly fixed commercial charge = Monthly Fixed Charge established by ordinance or resolution of the City Council for City commercial customers multiplied by the number of commercial customers in the contributing jurisdiction.

Quantity = Estimated discharge of wastewater to the POTW. The quantity can be directly measured by meters at the point the wastewater discharge enters the POTW, or quantity can be estimated based on water consumption, or it can be a combination of both. For residential customers only, quantity can be estimated based on average water consumption in winter months; or quantity can be estimated for residential customers based on average water consumption per residential connection for all residential customers multiplied by the number of connections.

Flow Rate = Flow rate assigned to each rate category for residential and commercial customers in the City.

Ratio of Applicability = A ratio based upon the sewer expense of the contributing jurisdiction and the total POTW wastewater service expense. Such ratio may be more specifically described in a policy, procedure or guidance promulgated by the Director.

### **12.08B.230 Connection charge-in-lieu-of-assessment.**

It is the intent of the City that all property owners shall bear an equitable share of the historic cost of constructing the abutting and adjacent POTW. Owners of premises within the City adjacent to and abutting the POTW that have not been previously assessed under a LID, or for a sanitary sewer improvement, may, upon receipt of a permit issued by the control authority to an owner or authorized representative, connect such premises to the POTW and discharge wastewater into such system. Such permit shall be issued only upon written application to the City by the owner of the premises to be served and shall be subject to the following terms and conditions:



A. The owner shall obtain all permits and pay all fees required by the City prior to making a connection to the POTW. Private side sewers shall be constructed in accordance with the City's Side Sewer and Sanitary Sewer Availability Manual and applicable policies, procedures, guidance, requirements and manuals promulgated by the Director related to side sewer connections.

B. Except as provided in subsection F of this section, the owner, prior to the issuance of any permit herein authorized, shall pay the City a connection charge-in-lieu-of-assessment. This charge shall be computed at the guaranteed rate per "Assessable Unit of Frontage" in effect at the time of construction of the sanitary sewer line to be used to serve the premises of such owners, unless as otherwise provided below at subsections 1 and 2. The rate for computation of a Connection Charge-in-lieu-of Assessment shall be determined as of the date of completion of construction of the particular sanitary sewer line to be so used, as reflected by the rates shown below in Table I.

**TABLE I**

<u>Construction Date</u>	<u>Rate Per A.U.F.</u>	
	<u>Two Side Service</u>	<u>One Side Service</u>
<u>Prior to September 30, 1957</u>	<u>\$3.25</u>	<u>\$3.25</u>
<u>October 1, 1957 to September 20, 1960</u>	<u>\$3.25</u>	<u>\$4.75</u>
<u>September 21, 1960 to January 15, 1963</u>	<u>\$3.75</u>	<u>\$4.75</u>
<u>January 16, 1963 to November 19, 1968</u>	<u>\$4.50</u>	<u>\$5.50</u>
<u>November 20, 1968 to July 17, 1973</u>	<u>\$5.75</u>	<u>\$9.00</u>
<u>July 18, 1973 to April 8, 1975</u>	<u>\$7.50</u>	<u>\$11.00</u>
<u>April 9, 1975 to December 5, 1978</u>	<u>\$15.50</u>	<u>\$23.00</u>
<u>December 6, 1978 to December 31, 1982</u>	<u>\$20.00</u>	<u>\$38.00</u>
<u>January 1, 1983 to June 2, 1991</u>	<u>\$24.50</u>	<u>\$46.50</u>
<u>June 3, 1991 to June 30, 1994</u>	<u>\$30.00</u>	<u>\$60.00</u>
<u>July 1, 1994 to December 31, 1998</u>	<u>\$40.00</u>	<u>\$80.00</u>
<u>January 1, 1999 to May 31, 2011</u>	<u>\$50.00</u>	<u>\$100.00</u>
<u>June 1, 2011 and thereafter</u>	<u>\$75.00</u>	<u>\$150.00</u>

1. In no case shall the connection charge-in-lieu-of-assessment be less than the rate per "Assessable Unit of Frontage" charged to the original LID participants; therefore, in the event that the rate per "Assessable Unit of Frontage" charged to the original LID participants was higher than the rate set forth in this table, the connection charge-in-lieu-of-assessment shall be equal to the higher rate. In addition to the "Assessable Unit of Frontage" charge calculated according to Table I above, the City shall assess each connection to the POTW a Connection Fee, as established by ordinance or resolution of the City Council. In no case shall the total charge for the connection exceed the charge that would result from using the prevailing guaranteed maximum rate in effect at the time of the connection, unless as otherwise provided below.

2. For connections to any portion of the sanitary sewer line built with City funds instead of by LID, and constructed after January 1, 1999, the connection charge-in-lieu-of-assessment for each abutting premises shall be the proportionate share of the actual cost to construct the sanitary sewer line. The proportionate share shall be the ratio of each premises' "Assessable Units of Frontage" to the total units of frontage, multiplied by the actual cost to construct the sanitary sewer line, plus any costs for side sewers. Actual cost to construct the sanitary sewer line shall be defined as the final applicable construction cost plus a 15 percent (15%) allowance for engineering, survey, inspection, and administration. In no case shall the connection charge exceed the benefit accruing to each premise. If the charge that would result from using the prevailing guaranteed maximum rate exceeds the proportionate share, the current connection shall be added to the proportionate share.

3. The calculation of the connection charge-in-lieu-of-assessment shall use the actual rate charged to the LID participants or the prevailing guaranteed maximum rate in effect at the time of construction, whichever is highest, unless the sewer was built with City funds after January 1, 1999. If the sewer was built with City funds after

January 1, 1999, the calculation shall use the prevailing guaranteed maximum rate in effect at the time of connection or the final applicable construction cost plus 15 percent, whichever is highest.

4. Connection of premises to the existing POTW which is not adjacent to or abutting the subject premises shall be subject to a connection charge-in-lieu-of-assessment calculated using the higher of the prevailing guaranteed maximum rate in effect at the time of connection.

5. If the POTW is extended to be adjacent to or abutting the subject premises, the adjacent or abutting premises, which are identified on the City's Request for Release as having contributed to the costs of the design and construction of the POTW, shall be connected to such POTW at no additional connection charge, as set forth in subsection C below; provided the owner/developer has submitted "As-Built" drawings to the City depicting the connection and has also executed the City's Certificate of Release.

6. The "Assessable Units of Frontage" and the applicable amount to be paid thereon shall be computed in the same manner as the procedure set forth for LIDs under Chapter 35.44 RCW. The owner of the premises is responsible for the cost of constructing their private side sewer that connects to the POTW.

C. The connection charge-in-lieu-of-assessment shall be credited to and considered a benefit to the specific premises served by the sewer connection. Such premises shall be designated by legal description and maintained as a part of the City's permanent records pertaining thereto and recorded with the Pierce County Auditor's Office as required by state law. No further sanitary sewer connection charge shall be collected against said premises.

D. Future sanitary sewer connections to premises abutting the POTW on which a sanitary sewer connection charge has not been paid, but which adjoins specific premises for which such charges have been charged or paid, shall be subject to the applicable charges as established by ordinance or resolution of the City Council.

E. The Sanitary Sewer Connection Charges shall be calculated to include a processing fee equivalent to the current fees charged by the County Auditor for recording the Certificate of Payment and Release served under RCW 65.08.180.

F. Septic System Amnesty Program. Owners of residential and commercial premises where wastewater service is available, but where the premise is not connected to the POTW, are eligible for a financial incentive to connect to the POTW, as set forth below at subsections 1. and 2.

1. Where the Connection Charge-in-lieu-of Assessment is applicable, a financial incentive, consisting of a 50 percent reduction in the charge (incentive program) for the subject premises will be available, subject to the availability of funds, as described below, and in accordance with applicable policies set forth by the Director. The remaining 50 percent (50%) of that charge may be eligible for financial assistance under the Environmental Services Conservation Loan Program. The City will allocate up to \$500,000 per fiscal year to fund the incentive program. Owners of premises who qualify for the incentive program will be eligible for a 50 percent reduction in their connection charge on a "first-come, first-served" basis until the moneys allocated by the City for the incentive program in a given fiscal year are exhausted.

2. Where an LID was/is formed, the financial incentive will consist of a 50 percent reduction to that assessment for the subject premises in accordance with policies set forth by the Director, subject to the availability of funds, as stated in subsection F.1 above. In the case where all or a part of the LID assessment, not including requested supplemental work, has been paid, the appropriate reduction or rebate will be made so that the final cost for the subject premises will be 50 percent of the full assessment amount.

3. The financial incentive program is not available to new premises that are constructed after wastewater service is available to that property. Owners not electing to take advantage of this limited program will be subject to the regular charges such as those specified in subsection B above.

G. All Connection Charges-in-lieu-of-Assessment received pursuant to the provisions of this section are nonrefundable and shall be considered capital contributions to the POTW and deposited into the Wastewater Management Fund.

H. All ordinances, polices, procedures, guidance, requirements, and manuals relating to the use, maintenance, and connection to POTW, shall apply to each such sanitary sewer connection. Persons who violate the requirements of this chapter may be subject to suspension or disconnection of wastewater service, along with other enforcement remedies authorized by this chapter or state law.

**12.08B.240 Billing periods, payments, and collections.**

A. All wastewater service rates and fees as established by ordinance or resolution of the City Council shall be assessed and billed monthly or bimonthly as shall be determined by the control authority and shall become due and payable at the office of the City Treasurer or such other places as approved by the City Treasurer on or before the 15th day after the statement has been mailed and shall become delinquent thereafter.

B. For any service rate or fee which becomes delinquent, the party shall be charged a late payment fee as set forth in TMC Chapter 12.01. Any service rate or fee which becomes delinquent, together with interest, also shall immediately become a lien against the premises served under RCW 35.67.200. Such lien may be foreclosed by the control authority in the manner provided by Chapter 35.67 RCW. In the event that the control authority files or releases a lien with the County Auditor, a processing fee will be added to the delinquent amounts owed equivalent to the current fees charged by the County Auditor for filing or releasing a lien. The processing fee will be allocated to the Wastewater Management Fund, and, for City tax purposes, recorded as revenue. In addition to such foreclosure, a customer whose wastewater management account is delinquent shall also be subject to having City water utility services terminated for the subject premises (or other premises owned or rented by the customer), which termination shall continue until the delinquency is fully satisfied or other arrangements are made to the satisfaction of the control of authority.

C. Rates due under this chapter shall be computed by carrying the computation to the third decimal place and rounding to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four.

**12.08B.250 Rates and fees for special approved discharges.**

A. The control authority may issue a special approved discharge authorization for short-term discharges of wastewater, stormwater, or groundwater to the POTW. Application and reapplication for discharge approval shall be made in accordance with TMC 12.08C.360 and accompanied by payment of a Special Approved Discharge Annual Fixed Administration Fee established by ordinance or resolution of City Council.

B. An authorized discharger shall also pay a rate based on the quantity and strength of the wastewater, stormwater, or groundwater discharged. Such Special Approved Discharge Rate shall be established by ordinance or resolution of the City Council and charged based on the following formula:

$$(FL + ((TSS * X) + (BOD * Y))) * Q = Z$$

FL = Flow rate

TSS = Total suspended solids mg/l

X = TSS rate per mg/l

BOD = Biochemical oxygen demand mg/l

Y = BOD rate per mg/l

Q = Quantity 100 cubic feet (ccf)

Z = Rate of charge

**12.08B.260 Fixed-term discharges of groundwater “pump and treat” effluent to the POTW.**

The control authority may conditionally allow effluent discharges from groundwater “pump and treat” remediation systems regulated by EPA or the Department of Ecology to the POTW for a fixed-term. Such discharges that cause or have the potential to cause pass through or interference shall not be allowed. No person shall discharge effluent from a groundwater “pump and treat” remediation system unless authorized by a control mechanism issued by the control authority. Persons authorized to discharge effluent from a “pump and treat” remediation system shall pay the applicable rates and fees for monitored users as set forth in this chapter at TMC 12.08B.265.

### **12.08B.270 Discharge of domestic wastewater from holding tanks.**

A. Persons wishing to discharge domestic wastewater from a holding tank not connected to the POTW shall obtain an authorization from the control authority prior to discharging the contents to the POTW. Such authorization shall be conditioned on submittal of a completed and approved application on a form provided by the control authority.

B. Persons discharging holding tank waste shall pay a Holding Tank Waste Discharge Rate for every 100 gallons discharged as established by ordinance or resolution of the City Council. The rate for holding tank waste generated from within the City shall be lower than the rate for holding tank waste generated outside the City.

C. Persons discharging holding tank waste shall comply with the best management practices for the acceptance of hauled waste under TMC 12.08C.510.

D. Persons discharging domestic wastewater from noncommercial vehicles which provide facilities for human habitation, including but not limited to campers, motor homes, and travel trailers are exempt from this section provided that such wastewater is discharged into a City-approved facility designed to receive such wastes.

E. Only domestic wastewater shall be authorized to be discharged under this section. Any other waste, including but not limited to grease traps, oil/water separators, interceptors, or septic tanks comprising waste other than domestic wastewater, or any mixture thereof, shall not be discharged under this section, unless authorized by the control authority. The control authority may prohibit or limit the discharge of holding tank waste to the POTW if such discharge contains chemicals at concentrations that may cause interference at the POTW.

F. Any mixture of hazardous or dangerous wastes, as defined by federal, state, or local laws and regulations, regardless of the quantity or ratio, in a holding tank is strictly prohibited from being discharged to the POTW.

G. Persons authorized to discharge holding tank waste under this section shall discharge such material at the City's Septage Receiving Station located at 2101 Cleveland Way, unless otherwise directed by the control authority.

### **12.08B.280 Rates and fees for TAGRO.**

The Director is authorized to establish and adjust charges and prices for TAGRO products and TAGRO services based on market conditions.

The Director may establish a program allowing for self-loading of TAGRO Mix up to one cubic yard at no cost, if material is available.

### **12.08B.290 Pilot rate program.**

The control authority is authorized to establish a Pilot Rate Program for commercial/industrial users to determine the suitability of alternative rate classifications to ensure costs are being properly recovered to provide wastewater services. As part of such Pilot Rate Program, the control authority may establish test rate classifications and set rates for each such test rate classification. The Pilot Rate Program and test rate classifications established therein shall be designed to increase the equitable distribution of costs among the users of the POTW to ensure the City's cost to own, operate, and maintain the POTW are properly recovered. Rate classifications established under this section shall be in the best interest of the rate payers. The rates set for each classification shall be fair and reasonable and each test rate classification created shall be based upon reasonable differences between users as grounds for distinction. The maximum rate set for each pilot rate classification shall be no higher than the rate that would ordinarily apply to each commercial/industrial user as established by ordinance or resolution of the City Council. No Pilot Rate Program established under this section shall exceed two years.

### **12.08B.300 Regular review of wastewater rates and fees.**

The control authority shall conduct regular reviews of the wastewater rates and fees established by ordinance or resolution of the City Council to confirm that all costs to provide wastewater services by the City are properly recovered.

### **12.08B.310 Reconsideration of wastewater rates.**

A. There shall be no reduction in rates for any premises to which a sanitary sewer service connection has been made or for which wastewater service is available, unless there is no charge being made for water or water service to such premises, or where monitoring, sampling, and testing prove the rate to be based on erroneous information.

B. If an industrial user is of the opinion that the user group rate thereof applicable to that industrial user is based on erroneous information, that owner or other person responsible for paying wastewater rates may, in writing, request a review by the control authority of the rate by sampling and testing of sanitary sewage and industrial wastewater from the premises served. Any industrial user or other person making such request shall provide a detailed explanation for why they believe their wastewater rate is based on erroneous information. An industrial user requesting such reconsideration may be eligible for sampling and testing by Environmental Services personnel or, if the industrial user chooses, they may have an approved certified outside laboratory perform the sampling and testing, at the industrial user's expense. The industrial user shall provide adequate and safe facilities for sampling. Any subsequent sampling and testing by control authority personnel, not required to meet federal or state regulations, shall be the responsibility of the industrial user. If an outside laboratory is employed for testing under this section, all samples taken shall be split with the Environmental Services Laboratory. Concurrent tests shall be run by the control authority to corroborate the results. All sampling and testing procedures shall be done according to "Standard Methods" or an alternative approved by the control authority. If the results of the tests are within standard deviations for the concentrations used in determining the rates, no rate change will be made. The industrial user shall bear all costs for re-sampling and testing by the control authority unless the results outside standard deviations indicate a lower composite rate. No retroactive credits or rebates for rates assessed and billed while using estimated concentration levels prior to an industrial user's request for sampling will be made.

### **12.08B.320 Rates and fees for monitored users.**

Monitored commercial and/or industrial users shall pay a Commercial and/or Industrial User Fixed Fee and a Monitored Commercial and/or Industrial User Rate based on the quantity and strength of the wastewater. Such rates and fees shall be established by ordinance or resolution of the City Council and be charged based on the following formula:

$$MF + \frac{(FL + ((TSS * X) + (BOD * Y))) * Q}{Z} = Z$$

MF = Monthly fixed fee

FL = Flow rate

TSS = Total suspended solids mg/l

X = TSS rate per mg/l

BOD = Biochemical oxygen demand mg/l

Y = BOD rate per mg/l

Q = Quantity 100 cubic feet (ccf)

Z = Rate of charge

### **12.08B.330 Rates and fees for commercial/industrial wastewater user groups.**

The City shall charge an annual fee, as established by ordinance or resolution of the City Council, for administering Industrial Wastewater Discharge Permits and Industrial Wastewater Zero-Discharge Permits.

Commercial or industrial users of the POTW shall be assessed and billed monthly a Commercial and/or Industrial User Fixed Fee and a Commercial and/or Industrial User Flow Rate, as established by ordinance or resolution of the City Council. Each unmonitored commercial or industrial user placed in a user group shall pay the Commercial and/or Industrial User Flow Rate per 100 cubic feet (ccf) for each category identified in Table II below. In no event shall any such rate and fee be less than the applicable monthly Residential Fixed Fee assessed to a single family residence.

All restaurants are initially classified in the Category 8 (Restaurant II) group. Any restaurant utility customer may petition the Director to be placed in the Category 6 (Restaurant I) user group. The customer must provide the Director with documentation that the restaurant has an approved grease retention device in compliance with current Uniform Plumbing Code as adopted in Chapter 2.06 of the Tacoma Municipal Code, and as amended thereafter, and applicable policies, procedures, guidance, requirements, and manuals of the control authority, and that the customer has an adequate ongoing maintenance program in place for that device. If the Director concurs, the control authority will classify that restaurant in the Category 6 (Restaurant I) user group as long as those conditions are continually

met. In the event that those conditions are not continually met, the Director will re-classify the restaurant into the Category 8 (Restaurant II) user group until the Director is satisfied that the required conditions are again met. Persons required to install and maintain a grease protection device shall comply with TMC 12.08C.500.

<b><u>Table II Categories for Commercial and/or Industrial User Groups</u></b>	
<b><u>Billing Category</u></b>	<b><u>Constituent Strength limits</u></b>
<u>Category 8</u>	<u>(BOD 901 + mg/l) (SS 600 mg/l)</u>
<u>Category 7</u>	<u>(BOD 701-900 mg/l) (SS 700 mg/l)</u>
<u>Category 6</u>	<u>(BOD 701-900 mg/l) (SS 400 mg/l)</u>
<u>Category 5</u>	<u>(BOD 501-700 mg/l) (SS 400 mg/l)</u>
<u>Category 4</u>	<u>(BOD 301-500 mg/l) (SS 450 mg/l)</u>
<u>Category 3</u>	<u>(BOD 301-500 mg/l) (SS 0-400 mg/l)</u>
<u>Category 2</u>	<u>(BOD 200-300 mg/l) (SS 150-400 mg/l)</u>
<u>Category 1</u>	<u>(BOD 0-250 mg/l) (SS 0-150 mg/l)</u>

**12.08B.340 Liability for supplemental fees.**

A. Persons, whether inside or outside the City, that discharge substances in violation of this chapter or TMC Chapter 12.08C to the POTW including, but not limited to persons that cause pass through or interference, shall be liable to pay any supplemental fees the control authority incurs to respond to such violation. Liability for supplemental fees under this section shall also apply to any person responsible for discharging a substance in violation of this chapter or TMC Chapter 12.08C to the POTW, regardless whether they own the property from which the prohibited discharge originates. Assessment of supplemental fees shall be in addition to:

1. Any enforcement action authorized by this chapter to address a violation of TMC Chapter 12.08B of TMC Chapter 12.08C;
2. Any cost recovery remedy available to the control authority under state and federal environmental laws and regulations; and
3. Any other remedy available at law or in equity to address a violation of TMC Chapter 12.08B or TMC Chapter 12.08C.

B. Any supplemental fees assessed shall become due and payable to the City within 30 days of receipt of such assessment. If supplemental fees are appealed and affirmed in whole or in part, such fees shall become due and payable within 30 calendar days of receipt of a final decision by the Hearing Examiner or a court. The control authority may pursue collection of non-payment of supplemental fees by any lawful means authorized, including referral to a collection agency.

## **RIGHT OF ENTRY AND CONFIDENTIALITY**

### **12.08B.400 Right of entry.**

In addition to any other authority granted herein, whenever the control authority has a reasonable basis to believe that a violation of this chapter has occurred or is occurring in, on or upon a building, premises, or real property, authorized representatives of the control authority bearing proper credentials and identification may, with the consent of the owner or occupant of such building, premises, or real property, enter into, on or upon the same at all reasonable times to conduct inspections and gather samples to determine whether the requirements of this chapter are being met. Reasonable times means normal business hours, or other times if the control authority has a reason to believe that wastewater discharges from a building, premises or real property are causing or contributing to a violation of this chapter that requires an immediate response by the control authority to protect property, human health, the POTW, or the environment.

### **12.08B.410 Confidential information.**

The disclosure of public records maintained under this chapter shall be governed by the provisions of Chapter 42.56 RCW. Financial, commercial and proprietary information submitted by a person, which identifies it as confidential, may be exempt from public disclosure pursuant to the provisions of Chapter 42.56 RCW.



## ENFORCEMENT REMEDIES

### 12.08B.500 Violations, enforcement, and penalties.

A. The provisions of this chapter together with, any policies, procedures, guidance, requirements, and manuals promulgated under authority of this chapter or TMC Chapter 12.08A, or otherwise made subject to enforcement under this chapter, and all terms and conditions of any permit, authorization, control mechanism, directive, or compliance order issued under authority of this chapter, are subject to enforcement pursuant to and under authority of TMC Chapter 1.82, the Uniform Enforcement Code. The control authority is authorized to exercise all powers and authority granted pursuant to TMC Chapter 1.82, including by way of example and not limitation, the power to issue compliance orders, corrective action notices, and notices of violation, assess monetary penalties, approve voluntary correction agreements, and develop, promulgate, revise, and implement policies and procedures governing enforcement actions under TMC Chapters 1.82 and 12.08B. The Director is empowered to delegate enforcement authority under TMC Chapters 1.82 and 12.08B to such persons as may be determined by the Director. Any such power and authority authorized pursuant to TMC Chapter 1.82 is in addition to the power and authority granted pursuant to TMC Chapter 12.08B and any other applicable state or federal law or regulation.

B. The maximum monetary penalty that may be assessed for each violation per day or portion thereof, and each continuing day or portion thereof, shall not exceed \$10,000. The maximum monetary penalties set forth at TMC 1.82.050.F are not applicable to violations of this Chapter. Monetary penalties shall be assessed in accordance with the most recent version of the Environmental Services Response Plan as promulgated by the Director pursuant to TMC Chapter 12.08A.

C. Compliance with the requirements of this chapter is mandatory except as may be otherwise provided in this chapter. Except as otherwise provided herein, any act or omission by a responsible person in noncompliance with any duty, requirement, or obligation set forth in this chapter, set forth in any standard, requirement, manual, or procedure promulgated under authority of this chapter or otherwise made subject to enforcement under this chapter, or set forth in a term or condition of any permit, authorization, control mechanism, directive, or compliance order issued under authority of this chapter, shall constitute a violation of this chapter and is subject to enforcement by the control authority.

D. Violations of this chapter may include, by way of example, but are not limited to the following acts or omissions:

1. Failure to accurately report the wastewater constituents and characteristics of a discharge when required by this chapter, or when requested by the control authority;
2. Discharging non-domestic wastewater to the POTW without the control authority's authorization;
3. Discharging wastewater that causes the City to violate one of its NPDES permits;
4. Tampering with any metering device or piping connected to such device to show the quantity of water used on the premises or discharged from such premises is less than the actual quantity used or discharged;
5. Discharging any solid or viscous substance capable of obstructing wastewater which will or may cause obstruction to the flow of wastewater or other interference with the operations of the POTW; and
6. Violating any provision of this chapter, including the terms of a permit, order, authorization, or other control mechanism issued under the authority of this chapter.

E. Policies and procedures governing enforcement of violations of this chapter and assessment of monetary penalties are set forth in the Enforcement Response Plan. The Enforcement Response Plan, and all amendments thereto, shall be issued by the Director or Director's designee, a copy of which shall be made available to the public pursuant to such requirements and procedures as are issued by the Director pursuant to TMC Chapter 12.08A to ensure public notice.

F. Any responsible person who willfully violates any provision of this chapter, or any permit, order, control mechanism, or other written authorization or directive issued by the control authority pursuant to this chapter shall, upon conviction, be guilty of a gross misdemeanor punishable by a fine of not more than \$5,000, or by imprisonment in jail for up to three hundred sixty-five (365) days, or both. Each day upon which a willful violation of this chapter, or any permit, order, control mechanism, or other written authorization or directive issued by the control authority pursuant to this chapter occurs may be deemed a separate and additional violation.



G. Any person who shall knowingly and falsely make, complete, or alter a written instrument required to be submitted to the control authority pursuant to this chapter, or a regulation, rule, or procedure promulgated under this chapter, or a term or condition of any directive or compliance order issued under authority of this chapter, shall be guilty of a gross misdemeanor and subject to a fine of not more than \$5,000, or by imprisonment in jail for up to three hundred sixty-five (365) days, or both. Proof of intent to defraud or injure is not required.

H. The enforcement provisions in this chapter are not exclusive remedies. The control authority may take any, all, or any combination of the enforcement actions described in this chapter against any person who violates this chapter. Furthermore, the control authority may pursue any other available remedies that exist in law or equity against any person that violates this chapter. Enforcement of violations will generally be in accordance with TMC Chapter 1.82 and the Environmental Services Enforcement Response Plan.

### **12.08B.510 Suspension of service.**

#### **A. Suspension of Service - Emergency.**

In addition to any other authority set forth in this chapter, the control authority may, pursuant to a stop-use order, immediately suspend discharges to the POTW at a premises whenever the control authority has reasonable cause to believe that an actual or threatened discharge, or other violation of this chapter, either:

1. Presents an imminent threat or substantial danger to the health or welfare of persons or the environment; or
2. Presents an imminent threat to, or does, interfere with the operation of the POTW.

Depending on the emergent circumstances, the control authority may provide either verbal or written notice to suspend an industrial user's actual or threatened discharge.

#### **B. Suspension of Service – Other Violations.**

The control authority may, pursuant to a stop-use order, suspend wastewater services at a premises where a connection to the POTW has been made in violation of this chapter, the control authority's NPDES permit, or any authorization, control mechanism, directive, or compliance order issued under authority of this chapter.

#### **C. Suspension of Service – Access.**

Unreasonable refusal to allow control authority representatives to access a premises pursuant to TMC 12.08B.300 (right of entry) to determine compliance with this chapter may, pursuant to a stop-use order, result in the suspension of discharges to the POTW.

D. The responsible person receiving a notice to suspend its discharge shall suspend discharging to the POTW in accordance with the requirements contained in the notice. If the responsible person fails to immediately comply with the terms of a notice to suspend an actual or threatened discharge, the control authority may take steps it deems reasonably necessary to protect the health and welfare of persons, the environment or the POTW, which may include, but is not limited to, severing the industrial user's sanitary sewer connection at any accessible location. As a condition of allowing discharges to the POTW to recommence, the control authority may require the responsible person to submit a written statement describing the corrective action it has implemented to prevent discharges that presented an imminent danger or threat to the health and welfare of persons or the environment, or threatened to interfere with the operation of the POTW.

### **12.08B.520 Unauthorized connection – misdemeanor.**

It is unlawful to make or cause to be made or to maintain any connection with the POTW, or with any sewer which is connected directly or indirectly with the POTW, without having permission from the control authority. Violation of this section is a misdemeanor punishable by a fine of not more than \$1,000, or by imprisonment in jail for not more than ninety (90) days, or by both such fine and imprisonment.

### **12.08B.530 Side sewer condition education requirement.**

#### **A. Purpose.**

The purpose of this section is to establish the distribution requirements for private side sewer educational flyers at the time of sale, major building remodel or additions to properties within the City, in order to educate property owners on the conditions of private side sewers, and to encourage the reduction in quantity of inflow and infiltration

into the sanitary sewer system. The educational flyer distribution requirements take effect on December 1, 2010. The control authority encourages owners to be proactive in making private side sewer or building repairs to eliminate inflow and infiltration to the sanitary sewer system. The City offers financial assistance to qualified customers through the Environmental Services Conservation Loan Program, to aid with the cost of performing private side sewer repairs or replacement.

B. Educational Flyer Distribution Requirement.

1. Effective December 1, 2010, property owners shall be provided with an educational flyer in the following circumstances:

a. Prior to the sale or transfer of title for a real property that contains any building or structure with a private side sewer connecting to the public sewer main. The educational flyer shall be provided to the buyer and seller by the real estate professional(s) representing the buyer and seller.

b. Prior to issuance of a building permit for a “substantial building renovation” (as defined in TMC 2.06.060). The educational flyer shall be provided to the permit applicant by the City at the time of permit application. If the permit applicant is not the property owner, the educational flyer shall be provided to the property owner by the permit applicant.

c. Prior to issuance of a building permit for any new buildings or additions to existing buildings in which the new structures or additions may be constructed over the top of the existing private side sewer. The educational flyer shall be provided to the permit applicant by the City at time of permit application. If the permit applicant is not the property owner, the educational flyer shall be provided to the property owner by the permit applicant.

2. This section shall not apply to any of the following:

a. Transfer of title from one co-owner to one or more other co-owners.

b. Transfer of title made to a spouse or to a person or persons in the lineal line of consanguinity of one or more of the transferors.

c. Transfer of title between spouses resulting from a decree of dissolution of marriage or a decree of legal separation or from a property settlement agreement incidental to a decree.

d. Condominiums.

C. Property owners are solely responsible for the construction, maintenance, operations, repairs, or replacement of the private side sewer and any surface reconstruction requirements when performing said repairs.

**MISCELLANEOUS PROVISIONS**

**12.08B.600 Environmental Services Conservation Loan Program.**

Conservation loans for wastewater are governed under TMC Chapter 12.08A.

## EXHIBIT “C”

### SUBCHAPTER 12.08C INDUSTRIAL WASTEWATER PRETREATMENT PROGRAM

Sections:

#### GENERAL PROVISIONS

- 12.08C.010 Purpose and application.
- 12.08C.020 Administration.
- 12.08C.030 Abbreviations.
- 12.08C.040 Definitions.

#### GENERAL SEWER USE REQUIREMENTS

- 12.08C.100 Prohibited discharge standards.
- 12.08C.110 Categorical pretreatment standards.
- 12.08C.120 State requirements.
- 12.08C.130 AKART.
- 12.08C.140 Industrial user survey form.
- 12.08C.150 Payment of rates and fees.

#### PRETREATMENT AND MONITORING FACILITIES

- 12.08C.200 Treatment required.
- 12.08C.210 Proper operation and maintenance.
- 12.08C.220 Monitoring facilities.
- 12.08C.230 Operating pretreatment facilities.
- 12.08C.240 Wastewater discharge control.
- 12.08C.250 Flow equalization.
- 12.08C.260 Multitenant buildings.
- 12.08C.270 Flow, pH, LEL and other meters and equipment.
- 12.08C.280 Tampering with water metering devices prohibited.

#### INDUSTRIAL WASTEWATER DISCHARGE PERMITTING

- 12.08C.300 Permits required.
- 12.08C.310 Industrial wastewater discharge permitting – Existing industrial users.
- 12.08C.320 Industrial wastewater discharge permitting – New sources and new industrial users.
- 12.08C.330 Industrial users.
- 12.08C.340 Industrial wastewater discharge permitting – Application contents.
- 12.08C.350 Certification requirements.
- 12.08C.360 Special approved discharge authorization.

#### INDUSTRIAL WASTEWATER DISCHARGE PERMIT ISSUANCE

- 12.08C.400 Industrial wastewater discharge permit duration.
- 12.08C.410 Industrial wastewater discharge permit contents.
- 12.08C.420 Industrial wastewater discharge permit modification.
- 12.08C.430 Industrial wastewater discharge permit transfer.
- 12.08C.440 Industrial wastewater discharge permit revocation.
- 12.08C.450 Industrial wastewater discharge permit reissuance.
- 12.08C.460 Industrial wastewater discharge permitting – Extra jurisdictional industrial users.
- 12.08C.470 Public notice.

#### REQUIREMENTS FOR FOOD SERVICE ESTABLISHMENTS, HAULED WASTE AND DENTAL FACILITIES

- 12.08C.500 Requirements for food service establishments.
- 12.08C.510 Requirements for hauled waste.
- 12.08C.520 Requirements for dental facilities.

## **REPORTING AND NOTIFICATION REQUIREMENTS**

- [12.08C.600 Baseline monitoring reports.](#)
- [12.08C.610 Compliance schedules.](#)
- [12.08C.620 Reports on compliance with categorical pretreatment standard deadline.](#)
- [12.08C.630 Periodic self-monitoring reports.](#)
- [12.08C.640 Notification of change in discharge or operations.](#)
- [12.08C.650 Notification and reports of potential problems.](#)
- [12.08C.660 Slug discharge – Notification and plan development.](#)
- [12.08C.670 Reports for industrial users.](#)
- [12.08C.680 Notice of noncompliance.](#)
- [12.08C.690 Notification of the discharge of hazardous waste.](#)
- [12.08C.700 Requests for information.](#)

## **COMPLIANCE MONITORING AND RECORDKEEPING**

- [12.08C.800 Analytical and sampling requirements.](#)
- [12.08C.810 Specific sampling requirements for industrial users.](#)
- [12.08C.820 Monitoring – Recordkeeping.](#)

## **RIGHT OF ENTRY AND CONFIDENTIALITY**

- [12.08C.900 Right of entry – Inspection and sampling.](#)
- [12.08C.910 Public Disclosure and Confidentiality.](#)

## **PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE**

- [12.08C.1000 Publication of industrial users in significant noncompliance.](#)

## **AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

- [12.08C.1100 Upsets.](#)
- [12.08C.1110 Bypass.](#)

## **ENFORCEMENT AND REMEDIES**

- [12.08C.1200 Violations, enforcement and penalties.](#)
- [12.08C.1210 Remedies non-exclusive.](#)
- [12.08C.1220 Suspension of service.](#)

## **MISCELLANEOUS PROVISIONS**

- [12.08C.1300 Severability.](#)

## GENERAL PROVISIONS

### 12.08C.010 Purpose and application.

This chapter sets forth uniform requirements for industrial users of the POTW to comply with all applicable state and federal laws, including Chapter 90.48 RCW, Chapter 173-216 WAC, Chapter 90.48 RCW, the Federal Clean Water Act (33 U.S.C., Section 1251 et seq.), the General Pretreatment Regulations (40 CFR Part 403), and this chapter. This chapter shall apply to all industrial users of the POTW and all other persons responsible for compliance with any requirement of this chapter. The purpose of this chapter is:

A. To protect the POTW by preventing the introduction of pollutants into the POTW that may interfere with its operation, or be incompatible with, or otherwise cause damage to, the POTW;

B. To prevent the introduction of pollutants into the POTW that will pass through if inadequately treated prior to discharge into receiving waters;

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

D. To promote reuse and recycling of industrial wastewater and biosolids derived from the POTW; and

E. To require persons regulated by this chapter to pay applicable rates and fees to reasonably distribute the cost to operate, and to maintain and improve the POTW.

F. To enable the City to comply with its NPDES Permit conditions, federal and state requirements applicable to biosolids use and disposal, and any other federal or state laws or regulations to which the POTW is subject.

### 12.08C.020 Administration.

#### A. Administration.

The City will administer this chapter in accordance with the purposes set forth herein and in accordance with the authority set forth in Chapter 35.67 RCW, and other applicable federal, state and local laws and regulations, its state pretreatment delegation, and its Pretreatment Program policies and procedures. In the event there is a conflict between a requirement of this chapter and: (a) a provision contained within it; (b) a provision of a permit issued under this chapter; or (c) a provision of an applicable federal or state law or regulation, the requirement(s) that are more protective of the environment shall apply.

#### B. Responsibility for Compliance.

It is the intent of this chapter to place the responsibility for complying with its requirements, and any policies, regulations, manuals, procedures and guidance adopted pursuant to this chapter, and any permit, authorization or approval granted pursuant to this chapter, upon the permittee, the person granted an authorization or approval, the facility operator, the facility manager, the facility owner, the owner and operator of any food service establishment or other business subject to regulation under this chapter, and any other person when that person's action or failure to take action causes or contributes to a violation of this chapter or any permit, authorization or approval made or given pursuant to this chapter. It is further the intent of this chapter that, whenever a facility constitutes an industrial user, the permittee, facility operator, facility manager, and facility owner shall be responsible for compliance with all requirements, obligations, limitations and prohibitions made applicable to an industrial user pursuant to this chapter. It is further the intent of this chapter that the permittee, operator, facility manager, and owner of a facility that constitutes a new source or existing source shall be responsible for compliance with all requirements, obligations, limitations and prohibitions made applicable to a new source or existing source pursuant to this chapter.

#### C. Appeals of Decisions and Determinations.

Appeals of decisions or determinations made by the Control Authority pursuant to this chapter are governed by 12.08A.140; provided that, appeals of enforcement actions taken pursuant to this chapter are governed by TMC Chapter 1.82

#### D. Liberal Construction.

The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter.

### **12.08C.030 Abbreviations.**

The following abbreviations, when used in this chapter, shall have the designated meanings:

<u>AWWA</u>	<u>American Water Works Association</u>
<u>BMPs</u>	<u>Best Management Practices</u>
<u>BOD<sub>5</sub></u>	<u>5-Day Biochemical Oxygen Demand</u>
<u>BTEX</u>	<u>Benzene, Toluene, Ethylbenzene, Xylene</u>
<u>°C</u>	<u>degrees Celsius</u>
<u>COD</u>	<u>Chemical Oxygen Demand</u>
<u>CFR</u>	<u>Code of Federal Regulations</u>
<u>EPA</u>	<u>U.S. Environmental Protection Agency</u>
<u>ERP</u>	<u>Enforcement Response Plan</u>
<u>°F</u>	<u>degrees Fahrenheit</u>
<u>FOG</u>	<u>Fats, Oil and Grease</u>
<u>gpd</u>	<u>gallons per day</u>
<u>GGI</u>	<u>Gravity Grease Interceptor</u>
<u>HMGI</u>	<u>Hydromechanical Grease Interceptor</u>
<u>LEL</u>	<u>Lower Explosive Limit</u>
<u>MAIL</u>	<u>Maximum Allowable Industrial Loading</u>
<u>mgd</u>	<u>million gallons per day</u>
<u>mg/L</u>	<u>milligrams per liter</u>
<u>MIU</u>	<u>Minor Industrial User</u>
<u>NAICS</u>	<u>North American Industry Classification System</u>
<u>NPDES</u>	<u>National Pollutant Discharge Elimination System</u>
<u>O&amp;M</u>	<u>Operation and Maintenance</u>
<u>POTW</u>	<u>Publicly Owned Treatment Works</u>
<u>RCRA</u>	<u>Resource Conservation and Recovery Act</u>
<u>RCW</u>	<u>Revised Code of Washington</u>
<u>SDCP</u>	<u>Slug Discharge Control Plan</u>
<u>SIC</u>	<u>Standard Industrial Classification</u>
<u>SNC</u>	<u>Significant Noncompliance</u>
<u>TMC</u>	<u>Tacoma Municipal Code</u>
<u>TRC</u>	<u>Technical Review Criteria</u>
<u>TSS</u>	<u>Total Suspended Solids</u>
<u>UPC</u>	<u>Uniform Plumbing Code</u>
<u>U.S.C.</u>	<u>United States Code</u>
<u>WAC</u>	<u>Washington Administrative Code</u>

## 12.08C.040 Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein unless a different meaning is otherwise plainly required. Words not defined herein shall have the meaning given pursuant to TMC 1.82.010. Words not otherwise defined in this chapter or TMC 1.82.010 shall have the meaning given in such federal and state statutes, rules, or regulations that apply to the activity being regulated. Words not otherwise defined, shall be given their common and ordinary meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The words “shall” and “will” are always mandatory and not merely directory and the word “may” is permissive. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority.

“Amalgam process wastewater.” Any wastewater generated and discharged by a dental discharge facility through the practice of dentistry that may contain dental amalgam.

“Amalgam separator.” A collection device designed to capture and remove dental amalgam from the amalgam process wastewater of a dental discharge facility.

“Amalgam waste.” Any non-contact and contact scrap amalgam waste or wastestream containing mercury or residues from the preparation, use or removal of amalgam. This includes, but is not limited to, any mercury waste generated or collected by chair-side traps, screens, filters, vacuum systems filters, amalgam separators, elemental mercury, amalgam capsules and autoclaves or other equipment that comes in contact with mercury.

“Applicable pretreatment standard.” The most restrictive federal or state pretreatment limit or prohibitive standard, or local limit, contained in or referenced by this chapter with which an industrial user is required to comply.

“Authorized representative” or “duly authorized representative of the industrial user.”

A. If the industrial user is a corporation:

1. The president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

2. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including: having the explicit or implicit duty of making major capital investment recommendations; initiating and directing comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; ensuring that the necessary systems are established or actions are taken to gather complete and accurate information for reporting requirements established by the Control Authority, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

B. If the industrial user is a partnership or sole proprietorship: a general partner or proprietor, respectively;

C. If the industrial user is a limited liability company, the managing member(s) of the limited liability company;

D. If the industrial user is a federal, state, or local governmental facility: a director or the highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or the designee of such official; and

E. The individuals described in paragraphs A through D above may designate another duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Control Authority.

“Batch discharge.” A special method of discharging wastewater defined in and authorized by an industrial wastewater discharge permit, special approved discharge authorization or other control mechanism.

“Best Management Practices” or “BMPs.” A schedule(s) of activities, treatment practices, prohibitions of practices, maintenance procedures, and other management practices based on applicable Pretreatment Standards in 40 CFR Part 403, federal categorical effluent standards and applicable state and local pretreatment requirements including local limits which are implemented by an industrial user to prevent or reduce pollutants from entering a facility’s waste stream and causing “interference” and/or “pass through” and/or damage to biosolids.



“Biochemical Oxygen Demand, 5-Day” or “BOD<sub>5</sub>.” The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees (20°) Celsius, expressed in parts per million or milligrams per liter (mg/L) by weight, using methods approved under 40 CFR Part 136.

“Bypass.” The intentional diversion of a wastestream from any portion of an industrial user’s treatment facility prior to being discharged to the POTW.

“Categorical Industrial User.” An industrial user subject to national categorical pretreatment standards.

“Categorical pretreatment standard” or “categorical standard.” Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with 33 U.S.C. Section 1317 that apply to a specific category of industrial users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

“City.” The City of Tacoma, a municipal corporation organized and existing under and by virtue of the laws of the state of Washington. The phrase “within the City” means within the City boundaries as now or hereafter constituted.

“Complete written instrument” means an instrument which is fully drawn with respect to every essential feature thereof; “incomplete written instrument” means an instrument which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written instrument.

“Color.” The optical density at the visual wave length of maximum absorption, relative to distilled water.

“Composite sample.” Multiple grab samples collected over time, either by continuous sampling or by mixing discrete samples and are reported as the average wastewater characteristic concentration for the period of time during which the composite sample was collected.

“Contributing jurisdiction.” A municipality other than the City that contributes wastewater to the POTW.

“Control Authority.” The City’s Environmental Services Department, its Director and its authorized representatives and their successors.

“Control mechanism.” An industrial wastewater discharge permit, a special approved discharge authorization, a letter, an authorization to discharge, or any other written notice of discharge requirements issued by the Control Authority.

“Cooling water.” Cooling water shall mean contact cooling water or noncontact cooling water which have the following meanings:

A. Contact: Water used for cooling purposes which comes in contact with any raw material, intermediate product, waste product or finished product; and

B. Noncontact: Water used for cooling purposes which does not comes in contact with any raw material, intermediate product, waste product or finished product and the only pollutant added is heat.

“Daily maximum discharge limit.” The maximum allowable discharge limit of a pollutant that may be discharged during a twenty-four (24) hour period or as specified in an industrial user’s industrial wastewater discharge permit. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the sampling period. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken during that sampling period.

“Days.” Unless otherwise indicated, “days” means calendar days.

“Dental amalgam.” An alloy of elemental mercury and other metal(s) that is used in the practice of dentistry.

“Dental discharge facility.” A facility where the practice of dentistry is performed and wastewater is discharged to the POTW.

“Dilute.” A wastestream that has been reduced in strength by the addition of water or another solution.

“Director.” The City of Tacoma’s Director of the Environmental Services Department, or successor department, who is designated to supervise the implementation and enforcement of this chapter or the Director’s duly authorized designee.

“Domestic wastewater.” Water carrying human wastes, including kitchen, bath, and laundry wastes from residences, buildings, industrial establishments and other places, which is similar in volume or chemical composition to wastewater discharged from a residential dwelling unit.

“Environmental permit.” An authorization, order or equivalent control mechanism issued by a federal or state agency, or local jurisdiction to implement the requirements of an environmental law, regulation or ordinance.

“Exempt dental discharge facility.” Any dental facility in which amalgam is not placed, removed, or used at any time in the dental practice or a dental facility that does not discharge amalgam process wastewater to the POTW.

“Existing source.” Any industrial user that is not a new source.

“Extra jurisdictional industrial user.” An industrial user located outside the City limits that contributes wastewater to the POTW.

“Facility.” A building, structure, equipment, installation, land, or any combination thereof, that is a source or potential source of an indirect discharge of wastewater to the POTW. This term shall not mean or include pretreatment facilities, wastewater pretreatment facilities, or food service establishment facilities, as those terms are used in this chapter.

“Facility manager.” The person in the position of the most senior corporate officer, executive, leader or administrator in charge of the daily supervision and operation of a facility. The facility manager may or may not be a duly authorized representative of the industrial user.

“Falsely alter.” To falsely alter a written instrument means to change, without authorization by anyone entitled to grant it, a written instrument, whether complete or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner.

“Falsely complete.” To falsely complete a written instrument means to transform an incomplete written instrument into a complete one by adding or inserting matter, without the authority of anyone entitled to grant it; and, to “

“Falsely make.” To falsely make a written instrument means to make or draw a complete or incomplete written instrument which purports to be authentic, but which is not authentic either because the ostensible maker is fictitious or because, if real, the maker did not authorize the making or drawing thereof.

“Federal Clean Water Act.” The Federal Water Pollution Control Act, as amended and codified at 33 U.S.C. 1251 et seq.

“Food service establishment.” Any non-mobile facility, which serves, prepares, processes, manufactures, or packages food for consumption such as a restaurant, commercial kitchen, caterer, hotel, school, hospital, detention facility, food caterer, convenience store, grocery store, manufacturing facility or care institution.

“Grab sample.” A sample which is taken from a wastestream on a one-time basis with no regard to the flow in the wastestream over a period of time not to exceed fifteen (15) minutes.

“Hauled waste.” Any domestic or non-domestic wastes delivered by tanker truck for discharge to the POTW.

“Hauler.” Any person that delivers domestic or non-domestic waste by tanker truck for discharge to the POTW.

“Hazardous waste.” Any waste designated as hazardous under the provisions of 40 CFR Part 261 or a dangerous waste under Chapter 173-303 WAC.

“Hazardous waste pharmaceuticals.” Pharmaceuticals that are considered RCRA hazardous by the EPA. Excluded are non-prescription pharmaceuticals that have a reasonable expectation of being used/reused or reclaimed.

“Healthcare facility.” Any person that is lawfully authorized to:

A. Provide preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, and counseling, service, assessment or procedure with respect to the physical or mental condition, or functional status, of a human or animal or that affects the structure or function of the human or animal body; or

B. Distribute, sell, or dispense pharmaceuticals, including over-the-counter pharmaceuticals, dietary supplements, homeopathic drugs, or prescription pharmaceuticals.

“Holding tank waste.” Sewage, including typically associated solids, from domestic activities pumped from a septic tank serving one or more private residences or a chemical toilet, or tanks within recreational vehicles, campers, trailers, and vessels.

“Indirect discharge.” The discharge or the introduction of pollutants into the POTW from any source regulated under Section 307(b), (c) or (d) of the Federal Clean Water Act (33 U.S.C. 1317), or this chapter, including holding tank waste discharged by a non-domestic industrial user to the POTW.

“Industrial waste” or “Non-domestic waste.” A liquid or solid waste from industrial manufacturing processes, or trade or business activities distinct from domestic wastewater.

“Industrial user.” A non-domestic source of an indirect discharge or any other industrial or commercial facility or business that has a sewer connection to the POTW, whether or not the industrial user discharges non-domestic wastewater.

“Industrial wastewater discharge permit.” A control mechanism issued by the Control Authority to an industrial user that allows, limits and/or prohibits the discharge of pollutants or flow to the POTW.

“Interference.” A discharge which alone or in combination with other discharges:

- A. Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and
- B. Causes a violation of the City’s NPDES permit (including an increase in the magnitude or duration of a violation) or the prevention of sewage sludge use or disposal in compliance with any of the following statutory or regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Federal Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

“Interlocal agreement.” An agreement entered into pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW.

“Instantaneous discharge limit.” The maximum or minimum concentration of a pollutant or a pollutant property based on a grab sample or direct measurement allowed to be discharged at any time.

“Local limits.” Discharge limits developed by the Control Authority in accordance with 40 CFR Section 403.5(c) and (d) which are set forth in this chapter.

“New source.” Shall be defined as set forth in 40 CFR Section 403.3(m).

“New source dental discharge facility.” A dental discharge facility that discharges to the POTW for the first time on or after July 15, 2017, or a dental discharge facility that transfers ownership on or after July 15, 2017.

“Normal domestic strength wastewater.” Wastewater, when analyzed in accordance with procedures established in 40 CFR Part 136, as amended, that contains no more than two hundred (200) mg/L of 5-Day Biochemical Oxygen Demand (BOD<sub>5</sub>) or two hundred and twenty-five hundred (225) mg/L of Total Suspended Solids.

“North American Industry Classification System Code” or “NAICS Code.” An industrial classification system developed by the United States Office of Management and Budget to classify business establishments for the collection, tabulation, presentation, and analysis of statistical data describing the U.S. economy. Also, see Standard Industrial Classification Code.

“NPDES Permit.” Waste discharge permits issued by the Washington State Department of Ecology to the City pursuant to Chapter 90.48 RCW and Section 402 of the Federal Clean Water Act that establish special and general conditions for discharging effluent from the City’s Central and North End treatment plants into waters of the state.

“Operator” Any person or group of persons, other than a facility manager, in control of or otherwise responsible for, through any arrangement, the management and operation of a facility or an entity or business enterprise subject to regulation under this chapter.

“Owner.” Any person holding title to, or an ownership interest in, a facility. It shall be presumed that the person identified in records of the Pierce County Assessor as the taxpayer is the owner of any such real property that constitutes a facility or upon which a facility is located.

“Pass through.” A discharge which exits the POTW into waters of the United States or the state in quantities or in concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the City’s NPDES Permit, including an increase in the magnitude or duration of a violation.

“Permittee.” Any person to whom an industrial wastewater discharge permit has been issued pursuant to this chapter.

“Person.” Any individual, partnership, co-partnership, firm, company, association, joint stock company, trust, estate, society, corporation, group, government, governmental agency or other legal entity, and their legal representatives, agents or assigns. The definition includes all federal, state and local government entities.

“pH.” The negative logarithm of the effective hydrogen-ion concentration or hydrogen activity in gram equivalents per liter used in expressing both acidity and alkalinity on a scale with values from 0 to 14, with 7 representing neutrality. Values lower than 7 are more acidic, and higher values are more alkaline.

“Pharmaceutical.” Any drug or dietary supplement for use by humans or other animals; any electronic nicotine delivery system (e.g., electronic cigarette or vaping pen), or any liquid nicotine (e-liquid) packaged for retail for use in electronic nicotine delivery systems (e.g., pre-filled cartridges or vials). This definition includes, but is not limited to dietary supplements, as defined by the Federal Food, Drug and Cosmetic Act; prescription drugs, as defined by 21 CFR 203.3(y); OTC drugs; homeopathic drugs; compounded drugs; investigational new drugs; pharmaceuticals remaining in nonempty containers; personal protective equipment contaminated with pharmaceuticals; and clean-up material from spills of pharmaceuticals. This definition does not include dental amalgam or sharps.

“Pollutant.” Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, explosives, munitions, medical waste, chemical wastes, corrosive substance, biological material, biological nutrient, toxic substance, radioactive materials, malodorous substance, wrecked or discharged equipment, rock, sand, slurry, cellar dirt, untreatable waste, or industrial, domestic, or agricultural wastes and certain characteristics of wastewater (e.g. pH, temperature, TSS turbidity, color, BOD<sub>5</sub>, COD, toxicity or odor).

“POTW.” Means a treatment works, as defined by 33 U.S.C. Section 1292 (2), which is owned and operated by the City. The term generally refers to any devices and systems used in the conveyance, storage, treatment, recycling and reclamation of municipal sewage and industrial wastes of a liquid nature. A reference to the POTW means and refers to the POTW owned or operated by the City, unless a different meaning is otherwise plainly required.

“POTW Treatment Plant.” That portion of the POTW known as the Central and North-End treatment plants that provides treatment of municipal wastewater.

“Pretreatment.” The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to, or in lieu of, discharging or otherwise introducing such pollutants into the POTW through physical processes, biological processes, or by other processes or means, except as prohibited by 40 CFR Section 403.6(d).

“Pretreatment facilities.” Wastewater treatment equipment, units, devices, facilities or portions thereof designed to provide pretreatment of wastewater.

“Pretreatment program.” A federal, state and local program administered by the City that requires industrial and commercial sources of non-domestic wastewater to treat wastewater prior to discharging it to the POTW.

“Pretreatment interlocal agreement.” An interlocal agreement entered into by and between the City and another jurisdiction that is administered under TMC 12.08C.460.

“Pretreatment requirements.” Any substantive or procedural requirement related to pretreatment of wastewater, other than a pretreatment standard imposed on an industrial user.

“Pretreatment standard.” Any regulation containing pollutant limitations promulgated by the EPA in accordance with Section 307(b) and(c) of the Federal Clean Water Act or promulgated by the Washington State Department of Ecology in accordance with Chapter 90.48 RCW which applies to industrial users. The term includes prohibited discharge limits established pursuant to 40 CFR Section 403.5 and other standards, BMPs, local limits and specific prohibitions established by the Control Authority. See also, definition of “Applicable pretreatment standard.”

“Private side sewer” and “side sewer.” Shall have the same meaning as that term is given pursuant to TMC 12.08B.

“Responsible person.” Any person made responsible for compliance with the provisions of this chapter, any regulations established pursuant to this chapter, or any conditions of a permit, authorization or approval made or given pursuant to this chapter. Responsible persons are generally set forth at TMC 12.08C.020.B.

“Reverse distributor.” Any person that receives and accumulates prescription pharmaceuticals that are potentially creditable hazardous waste pharmaceuticals for the purpose of facilitating or verifying manufacturer credit. Any person, including forward distributors, third-party logistics providers, and pharmaceutical manufacturers, that processes prescription pharmaceuticals for the facilitation or verification of manufacturer credit is considered a reverse distributor.

“Septic tank waste” or “Domestic septage.” Liquid or solid material removed from a septic tank, cesspool, holding tank, or a similar system that receives only domestic waste (household, non-commercial, non-industrial sewage).

“Significant industrial user” means:

A. All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and

B. Any other industrial user that discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding domestic, noncontact cooling and boiler blowdown wastewater); or contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW; or is designated as such by the Control Authority 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 CFR 403.8(F)(6), as found in 55 FR 30128, July 24, 1990).

“Slug discharge.” Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW’s regulations, local limits or Permit conditions. This includes a discharge which exceeds the hydraulic or design of an industrial user’s treatment system or any part of the treatment unit.

“Stormwater.” That portion of precipitation, including snowmelt, that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes, and other features of a stormwater drainage system into a receiving water or stormwater facility.

“Supplemental fees.” Expenses and costs the Control Authority incurs to address and respond to a violation of TMC 12.08C, and which shall include, but not be limited to: (i) personnel costs, both direct and indirect; (ii) costs to investigate, contain, and abate the discharge, including cleaning up any contamination caused by the discharge that may be present within the POTW, at the point of discharge, or in the receiving environment; (iii) costs to respond to a discharge causing pass through or interference; (iv) costs to document and enforce a violation of TMC 12.08C; (v) costs to hire a contractor(s) or consultant(s) to respond to such violations; (vi) laboratory costs and analytical expenses; (vii) costs for equipment, materials, and supplies; (viii) mobilization, transportation, treatment, storage, and disposal costs; (ix) attorney’s fees, when authorized; (x) costs required for printing or mailings; and (xi) costs to collect unpaid supplemental fees.

“Tampering” or “tamper.” Any action taken to alter, bypass, damage or disable a monitoring device that would render it inaccurate.

“Threatened discharge.” The existence of any condition or practice which reasonably could be expected to lead to an unauthorized discharge of wastewater, that may present an imminent danger or threat to the health and welfare of persons or the environment, or that threatens to interfere with the operation of the POTW.

“Total suspended solids” or “TSS.” Solids that either float on the surface of or are suspended in water, sewage, or other liquid, and which are removable by laboratory filtering in accordance with procedures approved in 40 CFR Part 136, as amended.

“Toxic pollutant.” Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under Section 307(a) of the Federal Clean Water Act or as otherwise listed in 40 CFR Part 122, Appendix D.

“Upset.” An exceptional incident in which there is unintentional and temporary noncompliance with the applicable pretreatment standards because of factors beyond the reasonable control of the industrial user. The term “upset” does

not include noncompliance to the extent it is caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

“Wastewater” or “Wastestream.” Liquid and water-carried industrial wastes, holding tank waste, and domestic wastes from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated.

“Written instrument” means any paper, document, or other instrument containing written or printed matter or its equivalent, or any stamp, seal, certification, trademark, or other evidence or symbol of value, right, privilege, or identification.



## GENERAL SEWER USE REQUIREMENTS

### 12.08C.100 Prohibited discharge standards.

#### A. General Prohibitions.

No industrial user shall introduce to the POTW any pollutant which causes pass through or interference. These general prohibitions apply to all industrial users of the POTW whether they are subject to pretreatment standards, or any other national, state, or local pretreatment requirements.

#### B. Specific prohibitions.

No industrial user shall introduce or cause to be introduced to the POTW the following substances or combination of substances:

1. Any substance which either alone or by interaction with other substances create a fire or explosive hazard in the POTW, including, but not limited to wastestreams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test method specified in 40 CFR Section 261.21. The discharge restrictions and prohibitions of dangerous waste regulations set forth in Chapter 173-303 WAC shall apply to discharges under this chapter;

2. Wastewater having a pH of less than 5.0, or more than 11.0, or any wastewater capable of causing corrosive structural damage to the POTW or equipment except as authorized by an industrial wastewater discharge permit, special approved discharge authorization, or other control mechanism issued by the Control Authority;

3. Solid or viscous pollutants or substances in amounts which cause obstruction to the flow in the POTW or other interference;

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

5. Any pollutant, including oxygen-demanding pollutants released in a discharge at a flow rate and/or concentration which will cause interference;

6. Wastewater entering the POTW that exceeds 100 degrees Fahrenheit. The Control Authority may authorize a discharge above 100 degrees Fahrenheit if it determines such discharge will not cause interference or influent temperature at the POTW treatment plant to exceed 104 degrees Fahrenheit.

7. Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity which may cause acute worker health and safety problems or pollutants which alone or in combination with other pollutants, or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent or interfere with entry into the POTW for maintenance and repair;

8. Trucked or hauled pollutants, except at discharge points as authorized by an industrial wastewater discharge permit, special approved discharge authorization, or other control mechanism issued by the Control Authority, as set forth in this chapter;

9. Wastewater which contains grease or oil or any other substances that will solidify or become discernibly viscous at temperatures between thirty-two degrees (32°) Fahrenheit (0° Celsius) and one hundred fifty degrees (150°) Fahrenheit (65.5° Celsius);

10. Wastewater generated as a result of wastes pumped from gravity grease interceptors, hydromechanical grease interceptors or grease traps, sand-oil separators or other storage tanks or treatment units without the approval of the Control Authority;

11. Wastewater which imparts color to the POTW's effluent such as, but not limited to, dye wastes and vegetable tanning solutions;

12. Wastewater containing radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

13. Medical wastes that cause or contribute to pass through or interference;



14. Unless approved by the Control Authority under extraordinary circumstances, such as lack of direct discharge alternatives or need to augment sewage flows due to septic conditions (as required under WAC 173-216-050):

a. Non-contact cooling water in significant volumes;

b. Stormwater or other direct inflow sources; and

c. Wastewater significantly affecting system hydraulic loading, which does not require treatment or would not be afforded a significant degree of treatment by the POTW;

15. Any substance that causes the City to violate its NPDES Permit(s) or applicable federal or state water quality standards;

16. Sludge, screenings, or other residues from the pretreatment of industrial wastes or from industrial processes except as authorized by an industrial wastewater discharge permit, special approved discharge authorization or other control mechanism issued by the Control Authority;

17. Any slug discharge;

18. Any substance which may cause the POTW's effluent or treatment residues, sludge or sludge products or scums, to be unsuitable for reclamation or reuse, or which otherwise interferes with the reclamation process;

19. Any discharge containing a substance which is regulated under Chapter 173-303 WAC, unless authorized by an industrial wastewater discharge permit, special approved discharge authorization or other control mechanism issued by the Control Authority. Control mechanisms issued under this subsection shall comply with applicable discharge requirements set forth in Chapter 173-303 WAC; and

20. Any pesticides, herbicides or fungicides that cause or contribute to pass through, interference or negative impact to the POTW. Industrial users shall not discharge wastewater to the POTW that is generated from the rinsing of any container that contains or contained any concentrated or formulated pesticide, herbicide or fungicide unless approved by the Control Authority.

C. Hazardous waste pharmaceuticals.

Healthcare facilities that generate, accumulate or otherwise handle hazardous waste pharmaceuticals, and reverse distributors engaged in the management of prescription hazardous waste pharmaceuticals, shall not discharge pharmaceuticals to the POTW which are listed as hazardous waste under the federal Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq., and its implementing regulations), or which are regulated as hazardous waste under the same law based on the characteristics of ignitability, corrosivity, reactivity, or toxicity.

D. Storage.

No chemicals, materials, or other substances, including but not limited to, paints, solvents, boiler or water treatment chemicals, sludges, chemicals, or wastes shall be stored in proximity to a floor drain or other openings used to collect and convey, directly or indirectly, wastewater to the POTW unless secondary containment is provided. The requirement for secondary containment is waived if physical barriers exist that will prevent entry of chemicals, materials or other substances to floor drains or other openings used to collect and convey wastewater.

E. Dilution prohibited.

Dilution is prohibited as a substitute for wastewater treatment except where authorized by an applicable pretreatment standard or requirement. No industrial user shall ever increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The Control Authority may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations is appropriate.

F. Local limits.

1. No industrial user issued an industrial wastewater discharge permit shall discharge, or cause to be discharged, wastewater containing pollutants that exceed the following limits:

**Table 12.08C.100.F - 1**

<u>Pollutant</u>	<u>Daily Maximum Discharge Limits<sup>(a)</sup> for IUs discharging to Central Treatment Plant</u>	<u>Daily Maximum Discharge Limits<sup>(a)</sup> for IUs discharging to North End Treatment Plant</u>
<u>Arsenic</u>	<u>0.23</u>	<u>0.56</u>
<u>Cadmium</u>	<u>0.103</u>	<u>0.251</u>
<u>Chromium</u>	<u>4.74</u>	<u>4.54</u>
<u>Copper</u>	<u>1.46</u>	<u>2.27</u>
<u>Lead</u>	<u>0.427</u>	<u>1.20</u>
<u>Mercury</u>	<u>0.033</u>	<u>0.097</u>
<u>Molybdenum</u>	<u>0.55</u>	<u>1.46</u>
<u>Nickel</u>	<u>1.12</u>	<u>2.79</u>
<u>Selenium</u>	<u>0.14</u>	<u>0.437</u>
<u>Silver</u>	<u>0.64</u>	<u>1.55</u>
<u>Zinc</u>	<u>2.44</u>	<u>5.54</u>
<u>5-Day Biochemical Oxygen Demand (BOD<sub>5</sub>), lbs/day<sup>(b)</sup></u>	<u>No Limit</u>	<u>449</u>
<u>Total Suspended Solids (TSS), lbs/day<sup>(b)</sup></u>	<u>No Limit</u>	<u>2153</u>
<u>Ammonia, lbs/day<sup>(b)</sup></u>	<u>5,082.6</u>	<u>No Limit</u>
<u>Bis-2(ethylhexyl)phthalate</u>	<u>No Limit</u>	<u>&lt;0.0005</u>

<sup>(a)</sup> All Pollutants as Total and in mg/L unless otherwise specified.

<sup>(b)</sup> This limit is the total mass in pounds per day (lbs/day) that are available to allocate to all significant industrial users and other designated and permitted non-significant industrial users.

G. The Control Authority may implement local limits through allocation of the Maximum Allowable Industrial Load to significant industrial users and specific permitted non-significant industrial users that correspond to the uniform concentration local limits shown in Table 12.08C.100.F - 1.

H. The following limits shall apply to wastewaters that are discharged from:

1. Groundwater cleanup of petroleum or gasoline underground storage tanks or other remediation wastewaters containing these pollutants;
2. Discharges where one or more of these pollutants are present; or
3. Where these pollutants are appropriate surrogates.

It shall be unlawful for any industrial user to discharge or cause to be discharged any waste or wastewater to the POTW that exceeds the following limits:

**Table 12.08C.100.H - 1**

<u>Pollutant</u>	<u>Daily Maximum limit (mg/L)</u>
<u>Benzene</u>	<u>0.050</u>
<u>BTEX</u>	<u>0.750</u>

I. The Control Authority may establish more stringent pollutant limits, additional site-specific pollutant limits, best management practices, or additional pretreatment requirements when, in the judgment of the Control Authority, such limitations, practices or requirements are reasonably necessary to ensure compliance with the provisions of this chapter.

### **12.08C.110 Categorical pretreatment standards.**

A. Industrial users shall comply with the categorical pretreatment standard(s) found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

B. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Control Authority may impose equivalent concentration or mass limits in accordance with this section and 40 CFR Part 403.6(c).

C. When categorical pretreatment standards are expressed only in terms of a mass of pollutant per unit of production, the Control Authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration when calculating effluent limitations applicable to individual industrial users. The industrial user shall supply appropriate actual or projected long-term production rates for the unit of production specified in order to facilitate this process pursuant to 40 Part CFR 403.6(c)(2), as required by the Control Authority.

D. The Control Authority may allow wastewater subject to a categorical pretreatment standard to be mixed with other wastewaters prior to treatment. In such cases, the industrial user shall identify all categorically regulated wastestreams and provide sufficient information for each non-categorical wastestream to determine whether it should be considered dilute for each pollutant. In such situations, the Control Authority shall apply the appropriate formula as found at 40 CFR Part 403.6(e) to determine appropriate limits.

E. Equivalent mass limits.

1. When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that the Control Authority convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Control Authority. The Control Authority may establish equivalent mass limits if the industrial user meets all of the following conditions:

a. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its control mechanism;

b. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute for treatment;

c. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

d. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that, in the judgement of the Control Authority, are not appropriate for application of equivalent mass limits; and

e. Demonstrate that it has consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.

2. An industrial user subject to equivalent mass limits shall:

a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

b. Continue to record the facility's flow rates by a continuous effluent flow monitoring device;

c. Continue to record the facility's production rates;

d. Notify the Control Authority if production rates are expected to vary by more than twenty percent (20%) from the submitted baseline production rates. The Control Authority may reassess and revise equivalent limits as necessary to reflect changed conditions; and

e. Continue to employ the same or comparable water conservation methods and technologies so long as it discharges under its equivalent mass limit.

3. Equivalent mass limits:

a. Shall not exceed the product of the actual average daily flow rate of the regulated process(es) of the industrial user and the applicable concentration-based daily maximum and monthly average standards (and the appropriate unit conversion factor);

b. Shall, upon notification of a revised production rate, be reassessed and recalculated as necessary to reflect changed conditions at the facility; and

c. May be retained in subsequent industrial wastewater discharge permits if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to TMC 12.08C.100.E. The industrial user shall also be in compliance with 40 CFR Section 403.17.

F. The Control Authority may convert the mass limits of the categorical pretreatment standards at 40 CFR parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users. When converting such limits to concentration limits, the Control Authority must use the concentrations listed in the applicable subparts of 40 CFR parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by this chapter.

G. Equivalent limitations are deemed pretreatment standards for the purposes of this chapter and Section 307(d) of the Federal Clean Water Act. The Control Authority must document how the equivalent limits were derived and make this information publicly available. Once incorporated into its industrial wastewater discharge permit, an industrial user shall comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

H. When a categorical pretreatment standard specifies one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or 4-day average, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

I. Any industrial user operating under an industrial wastewater discharge permit that incorporates equivalent mass or concentration limits calculated from a production-based standard shall notify the Control Authority within two (2) business days after the industrial user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any industrial user that fails to notify the Control Authority of such anticipated change will be required to meet the mass or concentration limits in its control mechanism that were based on the original estimate of the long-term average production rate.

### **12.08C.120 State requirements.**

A. All pollutants discharged from a commercial or industrial operation to the POTW shall satisfy all applicable requirements set forth in Chapter 173-216 WAC.

B. Any person who constructs or modifies or proposes to construct or modify wastewater treatment facilities shall comply with the submittal requirements set forth in Chapter 173-240 WAC. No person may commence construction or modification of a wastewater treatment facility covered under Chapter 173-340 WAC without first submitting engineering reports and plans and specifications to the Control Authority for its review and written acceptance. The City, acting through the Control Authority, is authorized as a delegated unit of local government under RCW 90.48.110(2) to review such submittals.

C. Industrial users shall apply to the Control Authority for an industrial wastewater discharge permit at least ninety (90) days prior to the discharge of any pollutants other than domestic wastewater, or wastewater the Control Authority has determined to be similar in character and strength to domestic wastewater, and that there is no potential for such discharge to adversely affect the POTW.

D. All significant industrial users shall apply for, obtain, and maintain compliance with, an industrial wastewater discharge permit from the Control Authority, or approval of the Control Authority of a transfer of an existing permit to the industrial user, prior to discharging pollutants.

E. Claims of confidentiality shall be governed by TMC 12.08C.910.

F. Applicants for a new industrial wastewater discharge permit, or permit reissuance or modification, which allows a new or increased pollutant loading shall publish notice for each application in the format provided by the Control Authority, and in accordance with the public notice requirements set forth in TMC 12.08C.470.

G. The Control Authority may require the applicant to also mail this public notice to persons who have expressed an interest in being notified, and to state agencies and local governments with a regulatory interest, and to post the public notice on the facility. If the Control Authority determines there is sufficient public interest, it will hold a public meeting following the requirements of WAC 173-216-100. The Control Authority may, in its discretion, assume responsibility for public notice requirements for any applicant, and may waive the requirements of this section for any industrial user who is not classified as a significant industrial user.

H. Discharge restrictions set forth in Chapter 173-303 WAC (Dangerous Waste) shall apply to all industrial users.

I. All required monitoring data shall be analyzed by a laboratory registered or accredited under the provisions of Chapter 173-50 WAC, except for flow, temperature, settleable solids, conductivity, pH, turbidity, and internal process control parameters. However, if the laboratory analyzing samples for conductivity, pH, or turbidity must otherwise be accredited, it shall also be accredited for these parameters.

### **12.08C.130 AKART.**

Industrial users shall apply all known, available, and reasonable methods of prevention, control and treatment to wastewater discharges as required by Chapter 90.48 RCW.

### **12.08C.140 Industrial user survey form.**

Any person whose activities may, in the judgement of the Control Authority, be a source of nondomestic wastewater to the POTW shall, upon request of the Control Authority, complete and submit an industrial user survey form. Industrial users who seek to modify or increase an existing discharge of a nondomestic waste stream to the POTW shall submit an updated industrial user survey form to the Control Authority prior to modifying or increasing its discharge. Accurate completion of the industrial user survey form is a condition of initial and continued discharge to the POTW. Information contained within the industrial user survey form shall be used by the Control Authority to categorize a business operation and determine the proper level of regulation under this chapter, including whether an industrial user is a significant industrial user. Failure to comply with this section is a violation of this chapter subject to the enforcement provisions of TMC 12.08C.1200.

### **12.08C.150 Payment of rates and fees.**

Persons regulated by this chapter shall pay the applicable rates and fees for use of the POTW as set forth in TMC 12.08B.

## **PRETREATMENT AND MONITORING FACILITIES**

### **12.08C.200 Treatment required.**

An industrial user shall provide wastewater treatment. Such treatment shall comply with this chapter and shall also achieve compliance with all applicable federal, state and local pretreatment standards and requirements, within the time limitations specified by the EPA, the Washington State Department of Ecology, or the Control Authority, whichever is more stringent. The wastewater treatment can be obtained by physical process, biological process, or by other process or means, except as prohibited by 40 CFR Section 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug discharges that might interfere with or otherwise be incompatible with the POTW. Where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR Section 403.6(e). Any pretreatment facilities necessary for compliance with this chapter shall be provided, operated and maintained at the industrial user's expense and satisfy applicable requirements for content, review and acceptance of engineering reports, plans and specifications for construction and modification of pretreatment facilities, including an operation and maintenance manual as set forth in Chapter 173-240 WAC.

The Control Authority may, in its sole discretion, waive the requirement for a three-step submission of documents and require instead conceptual plans with such information from the engineering report and operation manual that the Control Authority determines will demonstrate compliance with this chapter. Construction or modification of a pretreatment facility shall not commence until engineering reports, plans and specifications for the project have been submitted to and approved by the Control Authority. Unless waived by the Control Authority, such reports shall be prepared under the supervision of, and bear the seal of, a professional engineer licensed in accordance with Chapter 18.43 RCW. The review and acceptance of the engineering reports, plans and specifications, and operation and maintenance manual, shall in no way relieve the industrial user from its obligation to comply with the provisions of this chapter, including modification of its pretreatment facility as necessary to produce a discharge acceptable to the Control Authority under the provisions of this chapter.

### **12.08C.210 Proper operation and maintenance.**

Industrial users shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the industrial user. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by an industrial user when the operation is necessary to achieve or assure compliance with conditions of its industrial wastewater discharge permit. Calibration of meters and monitoring equipment shall be performed in accordance with manufacturer specifications.

### **12.08C.220 Monitoring facilities.**

The Control Authority may require an industrial user to install at the industrial user's expense, monitoring facilities or equipment that allow for the representative sampling and accurate observation of wastewater discharges. Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the Control Authority's requirements and all applicable City construction standards and specifications. Monitoring equipment and structures shall be maintained in proper working order, calibrated as required by manufacturer's specifications and kept safe and accessible at all times for inspection by the Control Authority. The monitoring equipment shall be located and maintained on the industrial user's premises outside of the building footprint unless otherwise approved by the Control Authority. The monitoring facility shall include an enclosure that can be locked during sampling or monitoring or other inspection with a lock provided by the Control Authority. When such a location would be impractical, the Control Authority may allow such facility to be constructed in the public street or easement area, with the approval of the City department having jurisdiction over street occupancy according to such terms and conditions as it may impose. No industrial user shall cover any manhole, sewer cleanout, or other openings in the wastewater collection system with earth, paving, or otherwise render it inaccessible.

### **12.08C.230 Operating pretreatment facilities.**

The Control Authority may require an industrial user to provide confirmation that treatment facility operators have been properly trained regarding treatment facility operation and maintenance (O&M) practices.

**12.08C.240 Wastewater discharge control.**

The Control Authority may require an industrial user to restrict discharge during peak flow periods, designate that certain wastewater be discharged to the POTW at designated locations, relocate and/or consolidate points of discharge, separate domestic wastestreams from industrial wastestreams, and require such other conditions as may be necessary to protect the POTW.

**12.08C.250 Flow equalization.**

The Control Authority may require any industrial user discharging to the POTW to install and maintain, on its property and at its expense, a suitable storage and flow control facility to ensure equalization of flow. An industrial wastewater discharge permit may be issued solely for flow equalization.

**12.08C.260 Multitenant buildings.**

When more than one industrial user is able to discharge into a common service line, the Control Authority may require installation of separate monitoring equipment or structures for each industrial user.

**12.08C.270 Flow, pH, LEL and other meters and equipment.**

If the Control Authority determines an industrial user is required to measure and report: (1) wastewater flow; (2) discharge process wastewaters necessitating continuous pH measurement; or (3) discharge wastewater that may contain flammable substances or other pollutants of concern, the Control Authority may require the industrial user to install and maintain, at the industrial user's expense, approved meters and equipment.

**12.08C.280 Tampering with water metering devices prohibited.**

No person shall install, change, bypass, adjust, remove, alter, or otherwise tamper with any water metering device or any piping arrangement connected to a metering device to show the quantity of water used at or discharged from the facility is more or less than the actual quantity used or discharged.



## **INDUSTRIAL WASTEWATER DISCHARGE PERMITTING**

### **12.08C.300 Permits required.**

A. All significant industrial users proposing to connect to or discharge wastewater to the POTW shall apply for and obtain an industrial wastewater discharge permit from the Control Authority. An existing significant industrial user that has filed a timely wastewater permit application in accordance with this chapter may continue to discharge if authorized by the Control Authority.

B. The Control Authority may determine that an industrial user subject to categorical pretreatment standards under 40 CFR Section 403.6 and 40 CFR chapter I, subchapter N is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

1. The industrial user has consistently complied with all applicable categorical pretreatment standards and requirements;
2. The industrial user annually submits the certification statement required in Section 6.14 B [see 40 CR 403.12(q)], together with any additional information necessary to support the certification statement; and
3. The industrial user does not and never has discharged untreated concentrated wastewater to the POTW.

C. Upon finding that an industrial user meeting the criteria in subsection B above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirements, the Control Authority may, at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

### **12.08C.310 Industrial wastewater discharge permitting – Existing industrial users.**

An industrial user with an expiring industrial wastewater discharge permit shall apply for a new permit by submitting a complete permit application at least one hundred eighty (180) days prior to the expiration of the industrial user's existing industrial wastewater discharge permit. The industrial user shall file a permit application on forms provided by the Control Authority containing the information required pursuant to this chapter. A permit application containing incomplete or inaccurate information will not be processed and will be returned to the industrial user for revision.

### **12.08C.320 Industrial wastewater discharge permitting – New sources and new industrial users.**

A new source or new industrial user proposing to begin or recommence a discharge to the POTW and who is required to obtain an industrial wastewater discharge permit, special approved discharge authorization or other control mechanism, shall submit an industrial wastewater discharge permit application to the Control Authority. A new source or new industrial user shall not discharge wastewater to the POTW without first receiving an industrial wastewater discharge permit, special approved discharge authorization or other control mechanism issued by the Control Authority. Applications for an industrial wastewater permit shall be filed at least one hundred eighty (180) days prior to the desired date of discharge unless otherwise specified by the Control Authority, and include the information required pursuant to this chapter. A permit application containing incomplete or inaccurate information will not be processed and will be returned to the industrial user for revision.

### **12.08C.330 Industrial users.**

The Control Authority may require any industrial user to apply for and obtain an industrial wastewater discharge permit, a zero discharge industrial wastewater discharge permit or other control mechanism with conditions necessary to assure compliance with this chapter.

### **12.08C.340 Industrial wastewater discharge permitting – Application contents.**

A. All industrial users required to obtain an industrial wastewater discharge permit shall apply by using a form provided by the Control Authority. Industrial users shall submit the following information as part of their permit application unless waived by the Control Authority:

1. Identifying Information. The industrial user shall submit the name and physical address of the facility, including the legal name and trade name, if any, of the owner(s), operator(s), duly authorized representative of the industrial user, and, if different than the duly authorized representative of the industrial user, the facility manager, and mailing address and contact information for each person listed;

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

3. Description of Operations. The industrial user shall submit the following information regarding facility operations: (i) a brief description of the nature and average rate of production (including each product produced by type, amount, process, and rate of production); (ii) the Standard Industrial Classification(s) (SIC Code) and/or the NAICS Code that applies to each operation; (iii) a list of all raw materials and chemicals used (average and maximum rates) or stored at the facility that could be accidentally or intentionally discharged to the POTW; (iv) the number of employees and a general description of the duties they perform; (v) the hours of operation; (vi) a description of each product produced by type and amount, including the rate of production, and the process used for each product produced; (vii) the types of wastes generated on a routine and periodic basis; (ix) the times and durations when wastes will be discharged; and (x) sampling locations and provisions for monitoring discharges. The description shall also include a schematic process diagram showing each process step, wastestream, treatment step, internal recycling process, and points of discharge to the POTW. This diagram shall identify which wastestreams are subject to a categorical pretreatment standard. The industrial user shall also submit site plans, floor plans, mechanical and plumbing plans and details showing all sewers, sewer connections, floor drains, inspection manholes, and sampling chambers by size, location, and elevation;

4. Flow Data. The industrial user shall submit information showing the estimated or actual measured average daily and maximum daily flow, in gpd, to the POTW from regulated process streams and other wastestreams, if necessary to allow the use of the combined wastestream formula set forth in 40 CFR 403.6(e);

5. Pollutant Data. The industrial user shall submit: (i) the categorical pretreatment standard applicable to each regulated process; (ii) the results of sampling and analysis, as required by the Control Authority, that identify the nature and concentration (or mass) of regulated pollutants in the discharge from each regulated process; and (iii) the estimated peak instantaneous, daily maximum and long-term average discharge concentrations (and mass) based on sampling results. All samples taken shall be representative of daily operations and shall conform to the sampling collection and analytical procedures outlined in TMC 12.08C.800 and TMC 12.08C.810 and applicable program guidance. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) for a categorical industrial user covered by a categorical pretreatment standard, this adjusted limit, along with supporting data, shall be submitted as part of the application;

6. Slug discharge control plan for significant industrial users as described in Section 12.08C.670 shall be submitted. The Control Authority may require industrial users regulated under TMC 12.08C.330 to also submit a slug discharge control plan;

7. A statement that the industrial user acknowledges, understands, and agrees that the permittee facility will be subject at reasonable times to inspections and gathering of samples by the Control Authority to determine whether an industrial user is complying with the requirements of this chapter and any industrial wastewater discharge permit or other control mechanism issued thereunder;

8. Other Information. Any other information the Control Authority deems necessary to prepare an industrial wastewater discharge permit;

9. Certification. The industrial user shall certify that the application was reviewed by an authorized representative of the industrial user in accordance with TMC 12.08C.350; and

10. Incomplete Information. Incomplete or inaccurate information will not be processed and will be returned to the industrial user for revision.

### **12.08C.350 Certification requirements.**

All industrial wastewater discharge permit applications, including applications for transfer, modification or reissuance, industrial user reports, survey forms and any other submittals required by this chapter shall be signed by an authorized representative of the industrial user and contain at a minimum 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 fine and imprisonment for knowing violations.”

#### **12.08C.360 Special approved discharge authorization.**

A. The Control Authority may, at its discretion, issue a special approved discharge authorization or other control mechanism for a short-term discharge to the POTW, but in no event to exceed 365 days for each special approved discharge. Such authorizations may include discharge requirements, limitations and conditions that the Control Authority determines are necessary to comply with this chapter. The Control Authority shall provide the industrial user with an application form that requires specific information and data to be provided to allow the Control Authority to evaluate and determine whether or not a special approved discharge to the POTW will be authorized. The information and data required shall be provided to the Control Authority no later than thirty (30) days prior to the date that discharge is being proposed unless an alternative submittal date is authorized by the Control Authority. The rates and fees for a special approved discharge authorization shall be as set forth in TMC 12.08B.250. The Control Authority may revoke or suspend the special approved discharge authorization at its discretion.

B. The Control Authority may require a proposed or authorized discharger, at their cost, to gather representative samples for total suspended solids (TSS), biochemical oxygen demand (BOD), total petroleum hydrocarbons (TPH) or any other pollutants suspected to be present in the wastewater, stormwater or ground water. The proposed or authorized discharger shall have such samples analyzed at a state accredited laboratory, and submit the results to the control authority. The control authority will determine sampling frequency.

## INDUSTRIAL WASTEWATER DISCHARGE PERMIT ISSUANCE

### 12.08C.400 Industrial wastewater discharge permit duration.

An industrial wastewater discharge permit shall be issued for a specified period of time, not to exceed five (5) years from the effective date of the permit. An industrial wastewater discharge permit may be issued for a period of less than five (5) years at the discretion of the Control Authority. Each industrial wastewater discharge permit shall include an expiration date, subject to the provisions of TMC 12.08C.450. Approval of a modification or transfer of an industrial wastewater discharge permit shall not modify the duration of the permit.

### 12.08C.410 Industrial wastewater discharge permit contents.

A. Industrial wastewater discharge permits shall include conditions deemed necessary by the Control Authority to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, protect against damage to the POTW, and satisfy the requirements of this chapter.

B. Industrial wastewater discharge permits issued to significant industrial users and categorical industrial users shall contain all the conditions and information set forth below in TMC 12.08C.410.B.1 through B.10; provided that, control mechanisms issued to other industrial users may contain some or all of the same conditions, as determined by the Control Authority to ensure compliance with this chapter:

1. The industrial wastewater discharge permit issuance date, expiration date, and effective date;
2. The legal name, and trade name if any, and address for corporate offices of the owner(s) and operator(s);
3. The name and contact information of the duly authorized representative of the industrial user, the mailing address at which such representative may receive notice(s) from the Control Authority, and the name and contact information for the facility manager, if different than the duly authorized representative of the industrial user;
4. A statement that the industrial wastewater discharge permit is nontransferable without prior notification to and approval by the Control Authority in accordance with TMC 12.08C.430, and provisions for furnishing the new owner or operator with a copy of the existing industrial wastewater discharge permit;
5. A statement that the permittee facility is subject at reasonable times to inspections and gathering of samples by the Control Authority to determine whether an industrial user is complying with the requirements of this chapter and any industrial wastewater discharge permit or other control mechanism issued thereunder;
6. Effluent limits and best management practices based on applicable pretreatment standards and pretreatment requirements;
7. Self-monitoring, sampling, reporting, notification, and recordkeeping. These requirements shall, at a minimum include the pollutants to be monitored, sampling locations and sampling frequency, the sample type required to be monitored under this chapter, types of reports and when they are due, and the various notifications and when they are required;
8. A statement of applicable enforcement remedies for violating the conditions in the industrial wastewater discharge permit, including pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, and local law;
9. Requirements to control slug discharges, including developing, updating, and implementing slug discharge control plans if determined by the Control Authority to be necessary; and
10. Reapplication requirements.

C. Industrial wastewater discharge permits may, as determined by the Control Authority, contain the following additional conditions:

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
2. Requirements to install and maintain pretreatment facilities and technology, pollution control, including requirements to use best management practices to prevent accidental, unanticipated, or non-routine discharges, and construction of appropriate containment devices designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW;

3. Requirements to develop and implement waste minimization plans to reduce the amount of pollutants discharged to the POTW;

4. Requirements to pay rates and fees for wastewater discharged to, and managed and treated by the POTW;

5. Requirements to install and maintain inspection and sampling facilities and equipment, including flow measurement devices, and provide access to the Control Authority to conduct inspections and sampling at reasonable times;

6. A statement that compliance with the industrial wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, and local limits, including those which become effective during the term of the industrial wastewater discharge permit; and

7. Other conditions determined by the Control Authority to ensure compliance with this chapter, including regulations issued by the Control Authority pursuant to this chapter, and applicable requirements set forth in federal and state laws and regulations.

#### **12.08C.420 Industrial wastewater discharge permit modification.**

A. The Control Authority may amend any industrial wastewater discharge permit for good cause, including, but not limited to the following reasons:

1. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

2. To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character after the industrial user's industrial wastewater discharge permit is issued;

3. To address a change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

4. To respond to information indicating that a permitted discharge poses a threat to the health and safety of POTW personnel and the public, and/or receiving waters;

5. In response to a violation(s) of any term or condition of an industrial wastewater discharge permit;

6. When an industrial user misrepresents or fails to fully disclose all relevant facts in the industrial wastewater discharge permit application, or in any report required under this chapter;

7. When there is a revision of, or a variance is granted from, categorical pretreatment standards pursuant to 40 CFR 403.13;

8. When there has been a change in the legal or trade name of the industrial user, the duly authorized representative of the industrial user, or the name of the facility manager, and the permittee has submitted a request for a modification of the permit;

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

10. To reflect an approved transfer of the facility ownership or operation to a new owner or operator.

B. The industrial user shall file a written request for a modification of an industrial wastewater discharge permit whenever there has been a change in the legal name or trade name of the industrial user or a change in the name or mailing address of the duly authorized representative or the industrial user or facility manager. The request shall be submitted to the Control Authority as soon as practicable but no later than 60 days following implementation of the change. A permit will be non-transferable and subject to revocation if such request is not timely filed.

#### **12.08C.430 Industrial wastewater discharge permit transfer.**

A. Industrial wastewater discharge permits may be transferred to a new owner or operator subject to approval by the Control Authority. A permittee and new owner or operator seeking such transfer shall submit a joint or concurrent written request(s) to the Control Authority at least thirty (30) days in advance of the scheduled transfer date requesting the Control Authority to approve the transfer and modify the industrial wastewater discharge permit as needed to reflect the new owner or operator. Failure to provide a request for transfer in accordance with this section shall operate to revoke any and all rights granted under the industrial wastewater discharge permit to discharge to the POTW effective as of the date of the facility transfer to the new owner or operator. The joint or concurrent

request(s) to the Control Authority under this section shall (each) include a written certification by a duly authorized representative of permittee and the new owner or operator which:

1. States that there is no immediate intent to change the facility's operations and processes;
2. Identifies the specific date on which the facility transfer will occur;
3. Identifies the legal name and trade name, if any, of the new owner and operator, and the address of its corporate offices;
4. Identifies the name and contact information of the duly authorized representative of the new industrial user, the mailing address at which such representative may receive notice(s) from the Control Authority, and the name and contact information for the facility manager, if different than the duly authorized representative of the industrial user; and
5. Acknowledges and agrees that:
  - a. The new owner or operator has a legal, valid and binding obligation to comply with all requirements of the transferred industrial wastewater discharge permit;
  - b. Such transfer is within the power and authority of the permittee and the new owner or operator without consent of any other party and has been authorized by all requisite corporate or partnership action on the part of the permittee and new owner or operator;
  - c. Neither the transfer nor the Control Authority's approval of the transfer shall relieve the permittee of any obligation or liability arising under the industrial wastewater discharge permit occurring prior to the transfer;
  - d. The Control Authority waives none of its rights with respect to the permittee's or the new owner's or operator's compliance with the terms and conditions of the permit;
  - e. The Control Authority grants its approval of the transfer in reliance upon the representations, documents, and information provided by the permittee and new owner or operator in connection with the request for transfer; and that the approval of the transfer shall not in any way be deemed a representation by the Control Authority that the permittee or new owner or operator are in full compliance with the terms and conditions of the industrial wastewater discharge permit; and
  - f. The facility is subject at reasonable times to inspections and gathering of samples by the Control Authority to determine whether an industrial user is complying with the requirements of this chapter and any industrial wastewater discharge permit or other control mechanism issued thereunder.

#### **12.08C.440 Industrial wastewater discharge permit revocation.**

A. The Control Authority may revoke an industrial wastewater discharge permit or other control mechanism for cause, which includes, but is not limited to:

1. Failure to notify the Control Authority of a new waste stream or any changes to wastewater loading and wastewater characteristics prior to discharging such waste stream;
2. Failure to notify the Control Authority of significant production changes, as required by TMC 12.08C.640;
3. Misrepresenting or failing to disclose all relevant facts in an industrial wastewater discharge permit application, report, or other submittal required under this chapter;
4. Falsifying self-monitoring reports or certification statements;
5. Tampering with monitoring equipment;
6. Unreasonably refusing, or interfering with, entry by Control Authority authorized representatives seeking to conduct inspections and/or gather samples at the facility, as required by the industrial user's industrial wastewater discharge permit or other control mechanism, or TMC 12.08C.900;
7. Failure to meet effluent limitations or the conditions in the industrial wastewater discharge permit or other control mechanism;
8. Failure to pay monetary penalties imposed by the Control Authority, or supplemental fees it assesses;



9. Failure to meet compliance schedules imposed by the Control Authority in an industrial wastewater discharge permit or other control mechanism;

10. Cessation of operations;

11. Failure to obtain the Control Authority's approval under TMC 12.08C.430 prior to transferring the facility to a new owner or operator;

12. Failure to request a modification of an industrial wastewater discharge permit in accordance with TMC 12.08C.420.B;

13. Any violation of this chapter, including, a violation of any applicable pretreatment standard or requirement, or any term of an industrial wastewater discharge permit or control mechanism issued pursuant to this chapter;

14. An error by the Control Authority in issuing an industrial wastewater discharge permit; and

15. Discharging wastewater to the POTW that does or is likely to:

a. Cause pass through or interference;

b. Cause the City to violate the terms of its NPDES Permit(s); or

c. Pose a health and safety threat to POTW personnel and the public.

B. An existing un-expired industrial wastewater discharge permit is deemed revoked on the effective date of a new industrial wastewater discharge permit issued for the same industrial user.

#### **12.08C.450 Industrial wastewater discharge permit reissuance.**

An industrial user with an industrial wastewater discharge permit due to expire shall apply for an industrial wastewater discharge permit reissuance by submitting a complete permit application, in accordance with TMC 12.08C.410, at least one hundred eighty (180) days prior to expiration of the industrial user's existing industrial wastewater discharge permit, unless the Control Authority approves a different submittal deadline.

#### **12.08C.460 Industrial wastewater discharge permitting – Extra jurisdictional industrial users.**

A. The Control Authority may allow an industrial user located outside the City's jurisdictional boundary to discharge industrial wastewater into the POTW if the Control Authority determines that it has available capacity and treatment capability and that there is legal authority to regulate and control such discharges pursuant to a pretreatment interlocal agreement with the contributing jurisdiction where the industrial user is located. Such agreement shall affix responsibilities in an enforceable manner to assure that the Control Authority's Pretreatment Program is fully and equitably administered in all contributing jurisdictions and to ensure that the Control Authority has adequate legal authority to enforce pretreatment requirements; provided that, in the event that the contributing jurisdiction has a delegated pretreatment program, the interlocal agreement shall specify the distribution of responsibility such that the Control Authority can ensure that the contributing jurisdiction adequately implements and enforces a pretreatment program in a manner that complies with the City's NPDES Permit.

B. Prior to entering into a pretreatment interlocal agreement, the Control Authority shall obtain the following information from the contributing jurisdiction:

1. A description of the quality and volume of wastewater discharged to the POTW by the contributing jurisdiction;

2. An inventory of all industrial users located within the contributing jurisdiction that are discharging to, or seek to discharge to, the POTW through the jurisdiction; and

3. Such other information the Control Authority may deem necessary.

C. A pretreatment interlocal agreement under this section shall, at a minimum, contain the following provisions:

1. A requirement for a contributing jurisdiction that does not have a delegated pretreatment program to adopt a pretreatment ordinance which establishes pretreatment standards, requirements and enforcement provisions at least as stringent as this chapter, along with a requirement to revise such ordinance to reflect any amendments to this chapter that contain more stringent pretreatment standards and within a reasonable time frame, but not to exceed nine (9) months from the date of such amendments, and delegating authority to the Control Authority to implement



and enforce the pretreatment program for extra jurisdictional users located within the contributing jurisdiction that meet the definition of an industrial user;

2. A requirement for the contributing jurisdiction to submit a revised industrial user inventory on an annual basis, or more frequently if requested by the Control Authority;

3. A provision specifying which pretreatment implementation activities, including, but not limited to, issuing industrial wastewater discharge permits, conducting compliance inspections, sampling, and enforcement will be conducted by the contributing jurisdiction and which activities will be conducted by the Control Authority;

4. A requirement for the contributing jurisdiction to provide the Control Authority with access to all information that the contributing jurisdiction obtains as part of its pretreatment activities;

5. A requirement to enforce limits on the nature, quality, and volume of the contributing jurisdiction's wastewater at the point where it discharges to the POTW;

6. A provision ensuring the Control Authority's access to the facilities of all industrial users within a contributing jurisdiction that does not have a delegated pretreatment program, for the purpose of inspection, sampling, and confirming that the City's pretreatment program is properly administered and that industrial users are properly categorized;

7. Provisions ensuring that a contributing jurisdiction with a delegated pretreatment program adequately implements and enforces a pretreatment program in a manner that complies with the City's NPDES Permit; and

8. Provisions for addressing any breach of the terms of the pretreatment interlocal agreement.

D. Existing pretreatment interlocal agreements.

Existing pretreatment interlocal agreements that are not in compliance with the provisions of this section, shall be amended to conform, or shall be superseded by a pretreatment interlocal agreement that conforms, to the requirements of this section within a reasonable time frame, but not to exceed nine (9) months following the effective date. For purposes of this section, "existing pretreatment interlocal agreement" means a pretreatment interlocal agreement in effect on the effective date. For purposes of this section, "effective date" means the effective date of the ordinance adopting this chapter.

#### **12.08C.470 Public notice.**

A. Industrial users applying for an industrial wastewater discharge permit, or an industrial wastewater discharge permit reissuance or modification which allows a new or increased pollutant loading, shall publish notice for each application in a form provided and prescribed by the Control Authority, which shall conform to the requirements of WAC 173-216-090. Public notice requirements shall not apply to reissuance of industrial wastewater discharge permits if there are no increases in volume or changes in the characteristics of discharge from those previously authorized. Publication, at applicant's expense, shall be at least once each week, for two consecutive weeks, in a newspaper of general circulation in Pierce County.

B. Public comment on permit applications will be accepted for a 30-day period following the second publication. If the Control Authority determines that there is a significant public interest, then the Control Authority shall hold a public hearing after the 30-day comment period, at a time and place deemed appropriate by the Control Authority. The Control Authority may require the applicant to mail the notice to persons who have expressed an interest in being notified. The Control Authority may also require the applicant to post the notice of the public hearing on the applicant's facility.

## REQUIREMENTS FOR FOOD SERVICE ESTABLISHMENTS, HAULED WASTE AND DENTAL FACILITIES

### 12.08C.500 Requirements for food service establishments.

A. Best management practices for fats, oil and grease (FOG) for food service establishments.

The BMPs set forth below establish requirements for owners and operators of any food service establishment that has the potential to discharge floatable or settleable material.

1. Unless otherwise approved by the Control Authority, food service establishments shall install, and properly operate and maintain, a grease removal device in compliance with the requirements as set forth in this chapter, the Uniform Plumbing Code and the City's Side Sewer and Sanitary Sewer Availability Manual, as adopted and amended by the City.

2. Food service establishments shall not discharge or cause to be discharged any wastewater in violation of 12.08C.100.

3. If the Control Authority determines at any time that an existing grease removal device is incapable of adequately retaining the floatable and settleable material, or if it was installed in such a manner that it cannot be inspected or properly maintained, the food service establishment shall install a grease removal device that complies with this chapter, and the requirements of the Uniform Plumbing Code and the City's Side Sewer and Sanitary Sewer Availability Manual as adopted, and amended, within ninety (90) days after being notified by the Control Authority of such requirement unless an alternative schedule is approved by the Control Authority.

4. General control requirements.

The following general requirements apply to all food service establishments that install, or are required to install, a grease removal device.

a. A grease removal device shall be required for the proper handling of liquid wastes which may be harmful to, or cause obstruction in, the POTW or cause or contribute to pass through or interference.

b. It shall be the responsibility of the food service establishment and owner of the property to obtain any necessary permits from the appropriate regulatory authority prior to installing a grease removal device or modifying a facility's plumbing system to accommodate the installation of a grease removal device. The timing of review and approval of any permits that may be required shall in no way relieve the food service establishment from the responsibility of producing a discharge that complies with the provisions of this chapter.

c. The grease removal device shall be designed, sized, installed, maintained and operated to accomplish the intended purpose of intercepting pollutants from the food service establishment's wastewater and preventing the discharge of such pollutants to the POTW, including pollutants that result in toxic, noxious or malodorous conditions that create a public nuisance or unsafe working conditions, which endanger life or the environment.

d. Upon change of ownership or operator of any existing food service establishment required to have an approved grease removal device under this section, the applicant for sanitary sewer service shall have the burden to demonstrate that a properly sized, maintained and functioning grease removal device is installed.

e. All sinks connected to a grease removal device shall be equipped with a fixed or removable mesh or screen to catch garbage and food debris and prevent it from entering the grease removal device.

f. The industrial user and food service establishment shall ensure all grease removal devices are easily accessible for inspection, cleaning, and removal of FOG.

g. The food service establishment shall maintain grease removal devices at its expense to ensure the device operates as designed to remove accumulated FOG. All such maintenance shall meet the requirements under the uniform plumbing code as adopted, and amended, by the City.

h. Food service establishments required to use and maintain a grease removal device shall maintain a written record every time the device is pumped, cleaned or repaired. This record shall include the date, the name of the company that pumped, cleaned or repaired the device, and the amount of waste that was removed. Such records shall be maintained for a period of three (3) years, unless a longer retention period is specified in writing by the Control Authority, and made available to the Control Authority upon request. The removed contents from any GGI and other

approved grease removal devices shall be handled by a person licensed to haul such waste and shall be disposed of in accordance with applicable federal and state regulations and local ordinances.

#### 5. Required maintenance.

a. All grease removal devices shall be regularly cleaned so that the devices operate as designed to intercept fats, oil and grease from the food service establishment's wastewater and prevent the discharge of such materials into the POTW. All grease removal devices shall be serviced in accordance with manufacturer instructions at a minimum of every ninety (90) days or more frequently if the combined thickness of the floating greases and settled solids is greater than 25% of the hydraulic working capacity of the grease removal device or if toxic, noxious, malodorous conditions create a public nuisance or endanger worker or public health. The Control Authority may require more frequent cleaning if the minimum cleaning period is inadequate to meet the purpose and intent of this chapter, or less frequent cleaning if the industrial user can demonstrate to the Control Authority's satisfaction that less frequent cleaning is sufficient.

b. Biological treatment or enzyme treatment shall not be a substitute for the servicing of a grease removal device. Use of enzymes or other chemical or biological treatment or product that emulsifies or acts to emulsify FOG is prohibited unless approved by the Control Authority.

c. The food service establishment shall document the volume removed and the disposal of each pump-out with a waste manifest or disposal receipt, which shall be maintained by the food service establishment on site for at least three (3) years. The Control Authority may require food service establishments to submit that information electronically to the Control Authority.

#### 6. Variance.

a. A variance from the requirements of this section may be granted by the Control Authority when the installation of the required size GGI may be impractical due to limited space or other factors. The food service establishment may request a variance by submitting a proposed alternative grease removal system for attaining FOG protection for the POTW. The food service establishment shall demonstrate through data and other reliable information that the proposed alternative system, its overall design, including size and location, will satisfy and result in compliance with the intent, and discharge requirements, of this chapter. The design plans must be signed and sealed by a Washington State licensed professional engineer with experience in interceptor design. If approved, the design professional must certify that the site plan and the alternative grease removal system design meets the intent, and discharge requirements, of this chapter. In no case shall a variance result in violation of any pretreatment standard or requirement specified in this chapter and applicable to the discharge, cause or contribute to, an obstruction, pass through or interference with the POTW.

b. A variance may be revoked if the Control Authority determines, in its sole and reasonable discretion, that the food service establishment is in violation of the conditions set forth in the variance, the request for a variance was procured through fraud or materially false information, the reasons for granting the variance have materially changed, or the conditions set forth in the variance are inadequate to control specific pollutants as necessary to meet the purpose and intent of this chapter.

c. If a variance is granted, the food service establishment shall implement the approved alternative grease removal system and any BMPs and other mitigation measures that may be specified by the Control Authority. These BMPs may include, but are not limited to:

(1) Allowing the installation of a Hydromechanical Grease Interceptor (HMGI), or continuing to allow the use of a HMGI in lieu of installing a GGI, where the HMGI is shown to be effective. If a HMGI is not shown to be effective, the Control Authority may require the food service establishment to install a GGI;

(2) A requirement that all sinks and drains which are connected to the POTW be equipped with a fixed or removable mesh or screen which shall catch garbage and food debris and prevent it from entering the POTW;

(3) A requirement that biological treatment or enzyme treatment shall not be used unless approved by the Control Authority. Use of enzymes or other chemical or biological treatment or product that emulsifies or acts to emulsify FOG is prohibited;

(4) If requested by the Control Authority, an employee training program on FOG waste management instituted by the food service establishment on a periodic basis and for all new employees;

(5) A requirement that the food service establishment clean its private side sewer quarterly to prevent the buildup of FOG or as otherwise specified by the Control Authority; and

(6) A requirement that the food service establishment submit records of the private side sewer cleaning if requested by the Control Authority.

### **12.08C.510 Requirements for hauled waste.**

A. Best management practices for the acceptance of hauled waste.

The requirements established in this section shall apply to haulers. If the Control Authority elects to accept hauled waste, the following conditions shall apply:

1. Hauled wastes may be discharged to the POTW only at locations and at such times designated by the Control Authority;

2. The Control Authority shall have the right to refuse the discharge of any hauled waste load to the POTW if the Control Authority determines, in its sole discretion, that such discharge may contribute to or cause a pass through, upset or interference with the POTW, may damage or cause harm to the POTW, contains constituents that are unknown or unverified, may not comply with applicable pretreatment standards, pollution limitations or requirements set forth in this chapter, or that the discharge will not meet the purpose and intent of this chapter;

3. Haulers are prohibited from discharging wastes that would violate any provision in TMC 12.08C.100;

4. Haulers shall comply with specific pollutant limitations established by the Control Authority under this chapter which are specific to the hauled waste to be discharged;

5. The Control Authority may sample and analyze the hauled wastes or require the hauler to perform such sampling and analysis to verify that each hauled load complies with any applicable pretreatment standards and requirements regulated by this chapter. Wastes approved for discharge to the POTW shall be representative of what the hauler disclosed in the manifest or trip ticket. The Control Authority may sample and analyze the contents of any hauled waste tank or container prior to the discharge of hauled waste to the POTW to determine compliance with the conditions of any discharge approval granted under this chapter. The Control Authority may assess and collect a charge to recover such sampling and analytical costs as a pre-condition to determining if a discharge will be authorized;

6. The Control Authority may require haulers to sample and analyze hauled waste, including at the location where the hauled waste is generated;

7. Haulers shall receive prior approval from the Control Authority prior to discharging hauled waste to the POTW. The Control Authority may require a hauler to obtain a control mechanism prior to discharging hauled waste to the POTW;

8. Haulers shall notify the Control Authority of any new commercial or industrial customers, or changes in the nature of hauled waste originating from existing customers;

9. The Control Authority may restrict the maximum number of loads that a hauler may discharge during a specific period of time, and the discharge rate and volume of each load;

10. If requested by the Control Authority, a hauler shall provide a manifest form or similar trip ticket for every load prior to discharging hauled waste to the POTW. The manifest form or ticket shall include, at a minimum:

a. The name and address of each customer or source of waste;

b. The permit number;

c. The truck identification;

d. The volume of wastewater from each source;

e. The type of waste to be discharged;

f. Known or suspected pollutants present in load(s);

g. Signatory Certification; and

h. Certification that the hauled waste is not hazardous:

11. The Control Authority may impose rates and fees for hauled wastes as established by ordinance or resolution of the City Council;

12. Haulers shall maintain tanks, pumps, valves, hoses, racks, cylinders, diaphragms, pipes, connections, and other appurtenances on a vehicle in good repair to avoid leaks and spills at discharge locations designated by the Control Authority;

13. Hauled waste disposed of to the POTW shall only be disposed of at a location designated by the Control Authority;

14. Each hauler shall maintain its hauled waste vehicle to prevent leaks and spills at the designated discharge location. Any leaks or spills shall be promptly cleaned up by the hauler causing such leak or spill;

15. The Control Authority may require haulers to obtain a performance bond in an amount as specified by the Control Authority as a condition of discharging hauled waste to the POTW. When required, proof of bonding, in a form acceptable to the City Attorney, shall be provided to the City prior to discharging hauled waste to the POTW; and

16. The Control Authority may revoke or suspend the authorization to discharge hauled waste when the Control Authority has determined that a hauler has violated any provision of this chapter or when it determines that revocation or suspension is necessary to protect the POTW.

### **12.08C.520 Requirements for dental facilities.**

#### A. Best Management Practices for Dental Facilities.

##### 1. Applicability.

These BMPs apply to dental dischargers. Dental dischargers are not significant industrial users unless designated as such by the Control Authority. Dental dischargers are not categorical industrial users. These BMPs do not apply to dental dischargers that:

a. Exclusively practice one or more of the following dental specialties: oral pathology, oral and maxillofacial radiology, oral and maxillofacial surgery, orthodontics, periodontics, or prosthodontics;

b. Discharge wastewater from a mobile unit operated by a dental discharger;

c. Do not discharge any amalgam process wastewater to the POTW (e.g., a dental discharger that collects dental amalgam process wastewater for transfer to a centralized waste treatment facility as defined in 40 CFR Part 437); and

d. Do not place or remove dental amalgam except in limited emergency or unplanned, unanticipated circumstances that are reported and certified to the Control Authority as required in 40 CFR Section 441.50.

##### 2. Reporting.

a. The duly authorized representative of a dental discharge facility shall submit a dental user survey and certification to the Control Authority on a form provided by the Control Authority.

b. A new source dental discharger shall submit the dental user survey and certification within ninety (90) days of discharge to the sanitary sewer system.

c. A dental discharger existing on the effective date of the ordinance adopting this chapter, shall submit the dental user survey and certification to the Control Authority by October 12, 2020.

d. Exempt dental dischargers shall submit the dental user survey and certification by October 12, 2020, or within ninety (90) days of operation if a new facility.

##### 3. Amalgam Separator Requirements.

a. A new source dental discharger shall install, operate, and maintain an amalgam separator or device compliant with 40 CFR Section 441.30 prior to discharge to the POTW.

b. All dental facilities that discharge amalgam process wastewater to the POTW shall install an amalgam separator or device and implement the required best management practices in accordance with this section.

c. Existing source dental dischargers shall install, operate, and maintain an amalgam separator compliant with 40 CFR Section 441.30 by July 14, 2020. Existing facilities with non-compliant amalgam separators shall comply by June 14, 2027, unless replaced earlier due to malfunction.

#### 4. Amalgam Separator Required Best Management Practices.

a. All amalgam separators required under this chapter shall meet and comply with the following BMPs:

(1) The amalgam separator shall be compliant with 40 CFR Section 441.30(1) and certified to meet at least a 95% solids removal efficiency as specified by federal or state regulations per 40 CFR Section 441.30(1)(i);

(2) The amalgam separator shall allow the dental discharge facility to make direct observations as to the level of solids in the collection container, proper solid and liquid separation, and the condition of all plumbing connections;

(3) The amalgam separator shall be installed so that all amalgam contaminated wastewater passes through the unit before being discharged to the POTW;

(4) The amalgam separator shall be installed so that it is accessible for cleaning and inspection;

(5) The amalgam separator shall be serviced at a minimum of once every twelve (12) months, in accordance with the manufacturer's instructions or more frequently if visual inspections indicate that the level of solids is at or over 85% of the recommended maximum level, whichever is more stringent; and

(6) Amalgam waste removed from the amalgam separator shall be collected and handled in accordance with the manufacturer's instructions and applicable federal and state regulations, and local ordinances.

b. Each dental discharge facility shall ensure dental amalgam wastestreams from chair side traps, screens, vacuum pump filters, dental tools, cuspidors, or collection devices discharge through an appropriate amalgam separator.

c. Each dental discharge facility shall operate and maintain all equipment in accordance with the manufacturer's instructions.

d. Each dental discharge facility shall use disinfecting line cleaners that are non-acidic and non-oxidizing with a pH between 6-8 Standard Units. Prohibited cleaning chemicals include but are not limited to: bleach; chorine; iodine; and peroxide chemicals and other oxidizing cleaners.

e. All water containing amalgam waste shall be plumbed through the amalgam separator. When cleaning, ensure all filters or traps are rinsed over sinks or drains that discharge to the amalgam separator.

f. The dental discharge facility shall not cause or contribute to pass through or interference, or violate TMC 12.08C.100.

#### 5. Record Keeping.

All records required pursuant to this chapter shall be kept on site for a minimum of three (3) years, unless a longer retention period is specified in writing by the Control Authority, and shall be made available to the Control Authority as required by this chapter. Each dental discharge facility shall maintain records of:

a. Amalgam disposal: Records shall include the date, name and address of the facility where amalgam waste is shipped, and the amount shipped;

b. Visual inspections: Inspection logs shall include the date and time of the visual inspection, name and initials of person conducting the inspection, level of solids, maintenance needed, or other identified problems (e.g., leaks); and

c. Amalgam separator: Records shall include all maintenance and service completed on the amalgam separator.

#### 6. Business Modifications.

The owner and operator of a dental discharge facility shall inform the Control Authority in writing prior to:

a. Sale or transfer of ownership of the dental discharge facility;

b. Change in the trade name under which the dental discharge facility is operated;

c. Change in the nature of the services provided at the dental discharge facility that affects the potential to discharge amalgam; and

d. Remodel of the dental discharge facility that may result in an increase in flow or pollutant loading or that otherwise requires the owner or operator of the dental discharge facility to submit plans or specifications for approval through a building, land use, permitting or zoning department, or any other formal approval process by the City.

#### 7. Inspections and Data Collection.

The Control Authority may conduct inspections as authorized by this chapter, and/or require an additional or updated dental user survey for any dental discharge facility.



## **REPORTING AND NOTIFICATION REQUIREMENTS**

### **12.08C.600 Baseline monitoring reports.**

A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing industrial users currently discharging to or scheduled to discharge to the POTW shall submit a report which contains the information listed in subsection B below. At least ninety (90) days prior to commencement of their discharge, the owners, operators, permittees, and facility managers of new sources and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical pretreatment standard, shall submit to the Control Authority a report which contains the following:

1. The information listed in subsection B below;
2. The method of pretreatment intended to be used to meet applicable pretreatment standards; and
3. Estimates of anticipated flow and quantity of pollutants to be discharged from regulated process streams and other non-process streams.

B. Baseline monitoring reports shall include the following information:

1. All information listed in TMC 12.08C.340.A.1 through TMC 12.08C.340.A.11; and

2. Measurement of pollutants:

a. The industrial users shall take a minimum of one (1) representative sample to compile the data necessary to comply with the requirements of this paragraph;

b. Samples shall be taken immediately downstream from pretreatment facilities if such facilities exist or immediately downstream from the regulated processes if no pretreatment facilities exist. Industrial users shall measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR Section 403.6(e) if other wastewaters are mixed with the regulated wastewater prior to pretreatment. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR Section 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority. Both daily maximum and average concentrations (where determined) shall be reported;

c. Sampling and analysis shall be performed in accordance with the sampling techniques described in this chapter and 40 CFR 136;

d. The Control Authority may allow the submission of a baseline monitoring report which uses historical data only, provided the data is sufficient to determine the need for industrial pretreatment measures;

e. The baseline report shall indicate the time, date and place of sampling, and the methods of analysis. Industrial users shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW; and

f. All baseline monitoring reports shall be certified in accordance with TMC 12.08C.350.

### **12.08C.610 Compliance schedules.**

A. When a compliance schedule is granted by the Control Authority under TMC 12.08C.410.B.8, or other provision of this chapter, the following conditions shall apply:

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable pretreatment standard. Such major events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operations;

2. No increment referred to in subsection A.1 above shall exceed nine (9) months. The date of final compliance shall not extend beyond the final compliance date established for the applicable pretreatment standard;

3. The industrial user shall submit a progress report to the Control Authority no later than fourteen (14) days following each date in the schedule and the final date for compliance with the schedule. The industrial user shall

report, at a minimum, whether or not it timely complied with progress increments to be met on such date and, if not, the date on which it expects to comply with such progress increments, the reason for the delay, and the steps being taken by the industrial user to return to the established schedule and

4. In no event shall more than nine (9) months elapse between submittal of progress reports to the Control Authority.

#### **12.08C.620 Reports on compliance with categorical pretreatment standard deadline.**

A. Existing sources and new sources subject to a categorical pretreatment deadline shall submit a report to the Control Authority stating whether compliance has been achieved by the deadline date. An existing source shall submit a report within ninety (90) days after the final compliance date established by an applicable pretreatment standard. A new source shall submit a report within ninety (90) days after first discharging wastewater to the POTW.

B. Reports submitted by existing sources and new sources under this section shall contain the information described in TMC 12.08C.340.A.1 through TMC 12.08C.340.A.11, and indicate whether the applicable pretreatment standards are being met on a consistent basis. If the report indicates that the pretreatment standards are not being met on a consistent basis, the report shall state what additional operation and maintenance and/or pretreatment is necessary to bring the industrial user into compliance with the applicable pretreatment standards and requirements. Reports submitted under this section shall be certified in accordance with TMC 12.08C.350.

#### **12.08C.630 Periodic self-monitoring reports.**

A. Any industrial user with an industrial wastewater discharge permit shall submit periodic self-monitoring reports to the Control Authority at dates specified in its industrial wastewater discharge permit. Such reports shall compile the results of all effluent sampling required by the industrial user's industrial wastewater discharge permit during the previous reporting period. At a minimum, such industrial users shall sample their discharge twice a year unless otherwise specified in the industrial wastewater discharge permit, or by the Control Authority.

B. The periodic compliance report shall include a record of the nature and concentrations (and mass if specified in the industrial user's industrial wastewater discharge permit) of the pollutants in the effluent, subject to a pretreatment standard, that were measured, including a record of measured or estimated average and maximum daily flows taken at the industrial user's designated sampling location. Flows shall be reported based on an actual measurement. If actual measurements are not feasible, the Control Authority may allow an industrial user to report average and maximum flows by other techniques that are acceptable to the Control Authority.

C. The periodic compliance report shall also include monitoring records and any sampling information required by the industrial user's industrial wastewater discharge permit, including information necessary to determine compliance with applicable best management practices, pollution prevention alternatives, maintenance, treatment, and record keeping requirements. Production data shall be reported if required by the industrial user's industrial wastewater discharge permit, or when an industrial user is subject to a unit production-based concentration limit established by an applicable categorical pretreatment standard. Sampling and analysis that is conducted by the industrial user at the designated sampling location more frequently than is required by this section shall be included in the report.

D. The Control Authority may require industrial users to report other sampling and analysis as needed to determine compliance with this chapter.

E. Industrial users shall certify all periodic self-monitoring reports in accordance with TMC 12.08C.350.

#### **12.08C.640 Notification of change in discharge or operations.**

A. Permitted industrial users shall file a written notification with the Control Authority a minimum of thirty (30) days prior to any significant change either in the volume or character of pollutants in its discharge, or a change in any manufacturing process or pretreatment modifications that may alter the volume or character of pollutants in its wastewater discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(p). A significant change shall be a change equal to or greater than twenty percent (20%) in the mass of a pollutant or volume of flow discharged to the POTW. For purposes of this subsection, an industrial user becomes aware when it knows, or reasonably should have known, the facts giving rise to a reporting obligation.

B. Permitted industrial users with a permit condition that imposes wastewater concentration limits based on production levels shall notify the Control Authority in writing within two (2) days of when the industrial user becomes aware that production levels will significantly change during the next calendar month.

C. The Control Authority may require permitted industrial users to submit information needed to evaluate the changed discharge, including submission of a new or revised industrial wastewater discharge permit application. The Control Authority may issue, reissue, or modify an industrial user's industrial wastewater discharge permit in response to the notice under this section.

D. Permitted industrial users shall notify the Control Authority at least thirty (30) days prior to facility shutdown or closure which might alter the character, nature, quality or volume of its wastewater.

#### **12.08C.650 Notification and reports of potential problems.**

A. An industrial user causing a discharge to the POTW that has the potential to cause pass through or interference, including but not limited to, discharges of a non-routine and episodic nature, non-customary batch discharges, and slug loads, shall, upon first becoming aware of such discharge(s) immediately notify the Control Authority by telephone of the incident. This notification shall include the location of the discharge, type of waste discharged, concentration and volume, if known, and any corrective actions taken by the industrial user. For purposes of this subsection, an industrial user becomes aware when it knows, or reasonably should have known, the facts giving rise to a notification obligation.

B. Within five (5) days following a discharge described above in subsection A, the industrial user shall submit a written report to the Control Authority describing the causes of the discharge and the actions taken by the industrial user to prevent a recurrence of the discharge. Such report shall also indicate whether the discharge caused violations of any pretreatment prohibition, pretreatment standard, pretreatment requirements, and permit-specific or local limits. Notifications and reports made and submitted under this section shall not relieve the industrial user of any expense, loss, or damage to persons or property, natural resource damages, or other liability, including the assessment of supplemental fees, nor shall such notification or reporting relieve the industrial user from any enforcement action authorized by this chapter.

C. Industrial users shall post a notice in a prominent place at their facility that makes employees aware of the notification obligation in this section. Such notice shall include the point of contact and telephone number to call at the POTW to report a discharge covered by this section.

D. Industrial users shall notify the Control Authority immediately of any changes at its facility affecting the potential for a slug discharge.

#### **12.08C.660 Slug discharge - Notification and plan development.**

A. Each industrial user shall establish protective measures at their facility to avoid and prevent spills and slug discharges of pollutants and prohibited substances to the POTW. BMPs to prevent the discharge of spill or slug discharges shall be implemented and maintained at the industrial user's expense.

B. Each industrial user shall report all spills to the Control Authority that occur within the boundaries of the industrial user's facility whether or not the spill results in a discharge to the POTW.

C. The Control Authority may require any industrial user to prepare and implement a Slug Discharge Control Plan (SDCP). The Control Authority's acceptance of such plan shall not relieve an industrial user from the responsibility to modify its SDCP, as necessary, to meet the requirements of this chapter. SDCP's shall address, at a minimum, the following:

1. A description of all discharge practices, including non-routine discharge practices;
2. A description of all stored chemicals, disclosing all ingredients in formulations which could violate this chapter if discharged to the POTW;
3. A description of potential discharge pathways to the POTW;
4. The procedures for ensuring immediate notification to the Control Authority of any slug discharge; and
5. The procedures to prevent adverse impacts from any slug discharge. Such procedures shall address the inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of

plant site runoff, worker training, building or use of existing containment structures or equipment, measures for containing pollutants, and measures and equipment for emergency response.

D. Industrial users shall immediately notify the Control Authority when a slug discharge to the POTW occurs. This notification shall include the location of the discharge, date and time of the discharge, type of substances discharged, the concentration of contaminants, to the extent known, the volume of the discharge, and any corrective actions taken. In addition to enforcement under this chapter, industrial users responsible for a slug discharge shall be liable for all supplemental fees incurred by the Control Authority caused by and in response to such event.

E. Within five (5) days following a slug discharge, the industrial user shall submit a written report to the Control Authority describing the cause of the discharge, including any information that has become available to supplement the industrial user's initial notice. The written notice shall also include measures taken by the industrial user to prevent similar events in the future.

F. Industrial users shall review their SDCP's annually, or sooner if a change is made at an industrial user's facility that may require modifications to the SDCP. Modifications to the SDCP shall be submitted to the Control Authority for review and acceptance.

G. Industrial users subject to this section shall post signs in conspicuous locations on the industrial user's facility notifying employees about the procedures for reporting a slug discharge to the Control Authority.

#### **12.08C.670 Reports for industrial users.**

If the Control Authority deems it reasonably necessary in order to assure compliance with provisions of this chapter, it may require any industrial user to submit an industrial wastewater discharge permit application, questionnaire, a report on BMP implementation, or other reports and notifications authorized by this chapter in a format and timeframe as specified by the Control Authority.

#### **12.08C.680 Notice of noncompliance.**

If sampling and analysis performed by, or on behalf of, an industrial user indicates a violation of this chapter has occurred or is occurring, the industrial user shall notify the Control Authority within twenty-four (24) hours of becoming aware of the violation. Unless otherwise directed by the Control Authority, the industrial user shall repeat the sampling and analysis within five (5) days and submit the results to the Control Authority no later than thirty (30) days after becoming aware of the violation. For purposes of this section, an industrial user becomes aware when it knows, or reasonably should have known, the facts giving rise to a notification obligation.

#### **12.08C.690 Notification of the discharge of hazardous waste.**

A. Any industrial user shall notify the Control Authority, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261 or a dangerous waste under Chapter 173-303 WAC. Such notification shall be made within the appropriate time frames specified in TMC 12.08C.650 or within twenty-four (24) hours of becoming aware of the discharge, whichever is shorter. Such notification shall include:

1. The name of the hazardous waste as set forth at 40 CFR Part 261 or the name of the dangerous waste in Chapter 173-303 WAC;
2. The EPA hazardous waste number;
3. The type of discharge (continuous, batch, or other);
4. An identification of the hazardous constituents contained in the wastes;
5. An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month;
6. An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months;
7. A statement that the industrial user has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical; and

8. Certification as required by TMC 12.08C.350.

B. Any industrial user shall additionally notify the EPA Regional Waste Management Division Manager and the Washington State Department of Ecology, Hazardous Waste & Toxics Reduction program, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261 or a dangerous waste under Chapter 173-303 WAC and meets the reporting criteria specified at 40 CFR Section 403.12(p). Notification to the State and EPA is the responsibility of the industrial user and shall be made as required under 40 CFR Section 403.12(p). The industrial user shall provide the Control Authority with copies of all notifications made to the Washington State Department of Ecology and EPA.

C. In the case of any new regulation under Section 3001 of the Resource Conservation and Recovery Act (RCRA) identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste, the industrial user shall notify the Control Authority, the EPA Regional Waste Management Waste Division Director and the Washington State Department of Ecology, Hazardous Waste & Toxics Reduction program of the discharge of such substance within ninety (90) days of the effective date of such regulations.

D. The requirements of this section do not create a right or privilege to discharge any substance not otherwise allowed to be discharged by this chapter, a permit issued hereunder, or any applicable federal or state regulation.

**12.08C.700 Requests for information.**

A. Permittees and other persons subject to regulation under this chapter shall timely submit the following to the Control Authority upon request:

1. Information requested by the Control Authority to determine whether an industrial wastewater discharge permit or other control mechanism should be issued, modified, revoked, reissued, or terminated, or to determine compliance with such permit, control mechanism, or this chapter; and

2. Copies of any records that are required by its industrial wastewater discharge permit, or other control mechanism, including but not limited to, information regarding industrial processes, the nature and characteristics of wastes and wastewaters generated at the industrial facility, and the method of disposal of wastes.

B. Failure to provide information within the timeframe specified by the Control Authority shall be a violation of this chapter.

## COMPLIANCE MONITORING AND RECORD KEEPING

### 12.08C.800 Analytical and sampling requirements.

All pollutant sampling and analysis required by this chapter shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for a pollutant subject to sampling under this chapter, sampling and analysis shall be performed in accordance with procedures approved by the Control Authority. Unless specified below or otherwise specified by the Control Authority, data submitted to the Control Authority shall be analyzed by a laboratory registered or accredited under the provisions of Chapter 173-50 WAC. This requirement shall not apply to the following data submitted to the Control Authority: flow; temperature; settleable solids; conductivity; pH; turbidity; and internal process control parameters used solely for internal process control.

### 12.08C.810 Specific sampling requirements for industrial users.

A. Industrial users shall certify that all samples required to be collected under this chapter are representative of normal work cycles and the expected pollutant discharges from the industrial user's facility occurring during the reporting period. Industrial users shall also ensure that samples are collected during the period(s) specified in their industrial wastewater discharge permit, or as otherwise required by the Control Authority. In addition, industrial users shall comply with the following sampling protocols:

1. Use proper sample containers appropriate for sample analysis and sample collection and preservation as specified by the protocols in 40 CFR Part 136;

2. Obtain samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds using grab sample techniques;

3. For certain pollutants identified in an industrial user's industrial wastewater discharge permit, an industrial user may composite multiple grab samples taken over a twenty-four (24) hour period, unless a different time period is specified by the Control Authority. Industrial users may composite grab samples for cyanide, total phenols, and sulfides either in the laboratory or in the field, and may composite grab samples for volatile organics and oil and grease in the laboratory prior to analysis;

4. For all other pollutants, industrial users shall employ twenty-four (24) hour flow-proportional composite samplers unless the Control Authority authorizes or requires an alternative sample collection method. Time-proportional sampling may be approved or used by the Control Authority where time-proportional samples are believed representative of the discharge;

5. The Control Authority may authorize composite samples for parameters unaffected by the compositing procedures, as appropriate;

6. The Control Authority may require grab samples either in lieu of or in addition to composite sampling to show compliance with instantaneous discharge limits;

7. Industrial users conducting sampling activities to complete baseline monitoring and ninety (90) day compliance reports required by TMC 12.08C.600 and TMC 12.08C.620 shall collect at least four (4) grab samples for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds. Industrial users may composite samples prior to analysis if allowed under subsection 3 above. When historical sampling data exists, the Control Authority may authorize fewer samples if it determines that use of such samples will satisfy the requirements of this section;

8. For industrial users conducting sampling to complete periodic self-monitoring reports under TMC 12.08C.630, the Control Authority may specify the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements; and

9. Industrial users shall properly operate, clean, and maintain sampling and flow metering facilities and devices and ensure they function properly.

**12.08C.820 Monitoring – Recordkeeping.**

In addition to any recordkeeping requirements set forth in an industrial user's industrial wastewater discharge permit or other control mechanism, all industrial users subject to the reporting requirements of this chapter shall retain and make available for inspection and copying by the Control Authority at its facility all records the industrial user generates when conducting monitoring activities required by this chapter. Such industrial users shall also retain records associated with best management practices when such practices are required by the Control Authority. Monitoring records shall include chain-of-custody information including, at a minimum, the date, time, place and method of sampling, and the name of the person(s) conducting the sampling; the quality control and quality assurance procedures used and the name of the person(s) with control of the sample prior to analysis; the place and date where the sampling analysis was completed, the analytical technique(s) used, and the name of the person conducting the analysis; and the results of the sampling analysis. Industrial users shall retain the records described in this section at its permitted facility for inspection and copying by the Control Authority for three (3) years, unless a longer retention period is specified in writing by the Control Authority. The industrial user's obligation to maintain records under this section shall be automatically extended for the duration of any administrative enforcement or litigation action brought by the Control Authority against the industrial user.



## **RIGHT OF ENTRY AND CONFIDENTIALITY**

### **12.08C.900 Right of entry - Inspection and sampling.**

A. Authorized representatives of the Control Authority bearing proper credentials and identification shall have the right to enter the facility of any industrial user at reasonable times to conduct inspections and gather samples to determine whether an industrial user is complying with the requirements of this chapter and any industrial wastewater discharge permit or other control mechanism issued thereunder. Reasonable times shall include normal business hours, hours during which production, treatment, or discharge occurs, or times when the Control Authority has reasonable cause to believe that a violation has occurred or is occurring requiring immediate inspection.

B. Access shall include all parts of the facility for the purpose of inspection, and may include, but not be limited to surveillance, sampling discharges or materials likely to be discharged, examination and copying of records related to compliance with this chapter, evaluating pretreatment facilities, and the performance of additional duties relating to the compliance inspection.

C. Where an industrial user has security measures in force which require proper identification and clearance before entry into the facility, the industrial user shall make necessary arrangements with its security personnel so that Control Authority representatives bearing proper credentials and identification will be permitted to enter without delay for the purpose of conducting compliance inspection duties.

D. The Control Authority may require installation of devices necessary to sample and monitor industrial wastewater discharges as required by this chapter. The Control Authority may, with the industrial user's consent, temporarily install devices to sample and monitor discharges on an industrial user's premises when existing sampling and monitoring devices are inadequate to determine whether an industrial user's discharge is complying with the requirements of this chapter.

E. The Control Authority shall have access to and use of all monitoring facilities within an industrial user's facility to evaluate the industrial user's compliance with this chapter.

F. Industrial users shall maintain unobstructed, safe and convenient access to the areas of the facility to be inspected or sampled. Upon request by the Control Authority, an industrial user shall remove, at its own expense, any obstructions that prevent the Control Authority from undertaking its inspection or sampling activity.

G. Any unreasonable interference with the Control Authority's access under this section shall be a violation of this chapter, and may result in revocation of an industrial wastewater discharge permit, suspension or termination of authorization to discharge nondomestic wastewater to the POTW, or other enforcement authorized by this chapter.

### **12.08C.910 Public Disclosure and Confidentiality.**

Information submitted to and maintained by the Control Authority pursuant to this chapter is subject to public disclosure pursuant to the provisions of Chapter 42.56 RCW. Financial, commercial and proprietary information submitted by an industrial user which it identifies as confidential may be exempt from public disclosure pursuant to the provisions of Chapter 42.56 RCW.

## PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE

### 12.08C.1000 Publication of industrial users in significant noncompliance.

A. The Control Authority shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the POTW, a list of the industrial users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and met any of the criteria below:

1. Chronic violations of wastewater discharge limits in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter during a six (6) month period exceed by any magnitude a numeric pretreatment standard or requirement, including instantaneous limits;
2. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all the measurements taken for the same pollutant parameter during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC, which is 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH;
3. Any other violation(s) of a pretreatment standard or requirement, including daily maximum, long-term average, instantaneous limit or narrative standard that the Control Authority determines to have caused, alone or in combination with other discharges, pass through or interference, including endangering the health of the general public or the health of POTW personnel;
4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the Control Authority exercising its emergency authority to halt or prevent such discharge;
5. Failure to meet a compliance schedule milestone contained in an industrial wastewater discharge permit or compliance order for starting construction, completing construction, or attaining final compliance within ninety (90) days after the milestone schedule date;
6. Failure to provide, within forty-five (45) days after the due date, any required report, including a baseline monitoring report, 90-Day compliance report, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report non-compliance; or
8. Any other violation or group of violations, which may include a violation of best management practices, which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

## AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

### 12.08C.1100 Upsets.

A. An upset shall constitute an affirmative defense to an enforcement action brought for noncompliance with categorical pretreatment standards if the requirements of subsection B below are met.

B. An industrial user who wishes to establish the affirmative defense of an upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant and reliable evidence that:

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

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

3. The industrial user has submitted the following information to the Control Authority within twenty-four (24) hours of becoming aware of the upset; for purposes of this subsection, an industrial user becomes aware when it knows, or reasonably should have known, the facts giving rise to a reporting obligation:

a. A description of the indirect discharge and cause of noncompliance;

b. The period of noncompliance, including exact dates and times or, if not corrected at the time information is submitted under this subsection, the anticipated time the noncompliance is expected to continue, and why;

c. The steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. If the upset was caused by a reduction, loss, or failure of the power supply to the treatment facility, an industrial user shall take steps to control production of all wastestreams to the extent necessary until the treatment facility is restored or an alternative method of treatment is provided, or until such wastestreams can be temporarily stored for future treatment, or taken off-site for treatment and disposal; and

d. If an industrial user provides the information required by this subsection orally within twenty-four (24) hours, the industrial user shall also provide the same information to the Control Authority in writing within five (5) days thereafter.

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

### 12.08C.1110 Bypass.

A. Causing a bypass by intentionally diverting wastestreams from any portion of a treatment facility is a violation of this chapter unless such bypass is specifically authorized by this section and the industrial user responsible for the bypass complies with all applicable requirements in this section.

B. If approved by the Control Authority, an industrial user may allow a bypass to occur if it does not cause a violation of a pretreatment standard or requirement, or local limit, but only if the bypass is for essential maintenance to assure efficient operation. Bypasses under this subsection B are not subject to subsections C or D below, provided the bypass is compliant with this subsection.

C. Any other bypass, whether planned or unanticipated, shall meet the following requirements as applicable:

1. Industrial users knowing in advance of the need for a bypass shall submit written notice to the Control Authority, at least ten (10) days before the date of the bypass for approval by the Control Authority, if possible. Such notice shall include a description of the planned bypass (expected volume, pollutants, etc.), its expected duration, and the reason for such bypass. The Control Authority may approve such bypass, after considering its adverse effects, if it determines that the bypass will meet all conditions set forth in subsection D below.

2. Industrial users shall notify the Control Authority of any unanticipated bypass that exceeds an applicable pretreatment standard or requirement, or a local limit, within twenty-four (24) hours of becoming aware of such bypass. For purposes of this subsection, an industrial user becomes aware when it knows, or reasonably should have known, of the facts giving rise to a notification obligation. Industrial users shall provide a written follow-up report within five (5) days of such bypass, unless waived by the Control Authority based on its determination that the industrial user's oral report was timely and complete. Unless waived by the Control Authority, written bypass reports shall contain the following information:

- a. A description of the bypass (volume, pollutants, etc.) and its cause;
  - b. The date(s) and time(s) when the bypass started and ended;
  - c. If the bypass has not been corrected, the anticipated time it is expected to continue; and
  - d. The steps the industrial user has taken or planned to reduce, eliminate, and prevent recurrence of the bypass.
- D. The Control Authority may initiate an enforcement action authorized under this chapter against an industrial user for any bypass that violates this section; provided that, it shall be an affirmative defense to such an enforcement action if the industrial user can demonstrate that:
- 1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - 2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance, and the industrial user submitted notices as required under subsection C above.
- E. In any enforcement proceeding, the industrial user seeking to establish an affirmative defense shall have the burden of proof.
- F. The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the requirements of this section.

## ENFORCEMENT AND REMEDIES

### 12.08C.1200 Violations, enforcement and penalties.

A. The provisions of this chapter together with any standards, requirements and procedures promulgated under authority of this chapter or otherwise made subject to enforcement under this chapter, and all terms and conditions of any permit, control mechanism, directive or compliance order issued under authority of this chapter, are subject to enforcement pursuant to and under authority of TMC 1.82, the Uniform Enforcement Code, which code is made a part of this chapter. The control authority is authorized to exercise all powers and authority granted pursuant to TMC 1.82, including by way of example and not limitation, the power to issue compliance orders, corrective action notices, and notices of violation, assess monetary penalties, approve voluntary correction agreements, and develop, promulgate, revise, and implement policies and procedures governing enforcement actions under TMC 1.82 and 12.08C. The Director is further empowered to delegate enforcement authority under TMC 1.82 and 12.08C to such persons as may be determined by the Director. Any such power and authority authorized pursuant to TMC 1.82 is in addition to the power and authority granted pursuant to TMC 12.08C and any other applicable state or federal law or regulation.

B. Except as otherwise provided herein, the maximum monetary penalty that may be assessed for each violation per day or portion thereof, and each continuing day or portion thereof, shall not exceed \$10,000. The maximum monetary penalties set forth at TMC 1.82.050.F are not applicable to violations of this Chapter. Monetary penalties shall be assessed in accordance with the most recent version of the Environmental Services Enforcement Response Plan as promulgated by the Director pursuant to TMC Chapter 12.08A.

C. Compliance with the requirements of this chapter is mandatory except as may be otherwise provided in this chapter. Except as otherwise provided herein, any act or omission by a responsible person in noncompliance with any duty, requirement, or obligation set forth in this chapter, set forth in any standard, requirement or procedure promulgated under authority of this chapter or otherwise made subject to enforcement under this chapter, or set forth in a term or condition of any permit, authorization, control mechanism, directive or compliance order issued under authority of this chapter, shall constitute a violation of this chapter and is subject to enforcement by the Control Authority.

D. Violations of this chapter may include, by way of example, but are not limited to the following acts or omissions:

1. Failure to accurately report the wastewater constituents and characteristics of a discharge;
2. Failure to submit any report or notices required by this chapter;
3. Failure to report known or reasonably anticipated changes in wastewater constituents or characteristics, including increased flows, prior to the changed discharge;
4. Misrepresenting or intentionally failing to disclose all relevant facts in an industrial wastewater discharge permit application, report, or other submittal required under this chapter;
5. Falsifying self-monitoring reports;
6. Tampering with monitoring equipment;
7. Unreasonably withholding consent for access by authorized City representatives to conduct a compliance inspection and other activities described in TMC 12.08C.900;
8. Violating any applicable pretreatment standard, pretreatment requirement or local limit; and
9. Violating any provision of this chapter, including the terms of a permit, order, authorization or other control mechanism issued under the authority of this chapter.

E. Policies and procedures governing enforcement of violations of this chapter and assessment of monetary penalties are set forth in the Environmental Services Enforcement Response Plan. The Enforcement Response Plan, and all amendments thereto, shall be issued by the Director or Director's designee, a copy of which shall be made available to the public pursuant to such requirements and procedures as are issued by the Director pursuant to TMC Ch. 12.08A.030 to ensure public notice.

F. Any responsible person who willfully violates any provision of this chapter, or any permit, order, control mechanism or other written authorization or directive issued by the Control Authority thereunder shall, upon

conviction, be guilty of a gross misdemeanor punishable by a fine of not more than \$10,000, or by imprisonment in jail for up to three hundred sixty-five (365) days, or both. Each day upon which a willful violation of this chapter, or any permit, order, control mechanism or other written authorization or directive issued by the City thereunder occurs may be deemed a separate and additional violation.

G. Any person who knowingly and falsely makes, completes, or alters a written instrument required to be submitted to the Control Authority pursuant to this chapter, or requirement or procedure promulgated under this chapter, or a term or condition of any permit, control mechanism, directive or compliance order issued under authority of this chapter, shall be guilty of a gross misdemeanor and subject to a fine of not more than \$5,000 or by imprisonment in jail for up to three hundred sixty-five (365) days, or both. Proof of intent to defraud or injure is not required.

H. Persons, whether inside or outside the City, that discharge substances in violation of this chapter to the POTW, including but not limited to persons that cause pass through or interference, shall be liable to pay any supplemental fees the Control Authority incurs to respond to such violation in accordance with the liability for supplemental fees section set forth in TMC 12.08B.

### **12.08C.1210 Remedies non-exclusive.**

The enforcement provisions in this chapter are not exclusive remedies. The Control Authority may take any, all, or any combination of the enforcement actions described in this chapter against an industrial user in violation of this chapter. Furthermore, the Control Authority may pursue any other available remedies that exist in law or equity, including but not limited to, injunctive relief against an industrial user in violation of this chapter. Enforcement of violations will generally be in accordance with TMC 1.82 and the Environmental Services Enforcement Response Plan.

### **12.08C.1220 Suspension of service.**

#### A. Suspension of Service - Emergency.

In addition to any other authority set forth in this chapter, the Control Authority may, pursuant to a stop-use order, immediately suspend an industrial user's actual or threatened discharge to the POTW whenever the Control Authority has reasonable cause to believe that, an actual or threatened discharge, or other violation of this chapter, either:

1. Presents an imminent threat or substantial danger to the health and welfare of persons or the environment, or
2. Presents an imminent threat to, or does cause, cause pass through or interference.

Depending on the emergent circumstances, the Control Authority may provide either verbal or written notice to suspend an industrial user's actual or threatened discharge.

#### B. Suspension of Service – Other Violations.

The Control Authority may, pursuant to a stop-use order, suspend wastewater services at a premises where a connection to the POTW has been made in violation of this chapter, the Control Authority's NPDES permit, or any authorization, control mechanism, directive or compliance order issued under authority of this chapter.

#### C. Suspension of Service – Access.

Unreasonable refusal to allow Control Authority representatives to access a premises pursuant to TMC 12.08C.900 (Right of Entry) to determine compliance with this Chapter may, pursuant to a stop-use order, result in the suspension of discharges to the POTW.

D. Any industrial user receiving a notice to suspend its discharge shall suspend discharging to the POTW in accordance with the requirements contained in the notice. If an industrial user fails to immediately comply with the terms of a notice to suspend an actual or threatened discharge, the Control Authority may take steps it deems reasonably necessary to protect the health and welfare of persons, the environment or the POTW, which may include, but is not limited to, severing the industrial user's sanitary sewer connection at any accessible location. As a condition of allowing the industrial user to recommence its discharge, the Control Authority may require the industrial user to submit a written statement describing the corrective action it has implemented to prevent discharges that presented an imminent danger or threat to the health and welfare of persons, the environment, or threatened to interfere with the operation of the POTW.

E. Nothing in this section prevents the Control Authority from taking any other enforcement action authorized by this chapter or otherwise available at law.



## MISCELLANEOUS PROVISIONS

### 12.08C.1300 Severability.

If any portion of this chapter, as now or hereafter amended, or its application to any person or circumstances, is held invalid, unenforceable or unconstitutional, such adjudication shall not affect the validity of this chapter, as now or hereafter amended, or any section, provision or part hereof or thereof not adjudicated to be invalid, unenforceable or unconstitutional, and its application to other persons or circumstances shall not be affected.

# EXHIBIT “D”

## SUBCHAPTER 12.08D STORMWATER MANAGEMENT

Sections:

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12.08D.020 Administration.

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## GENERAL PROVISIONS

### 12.08D.010 Purpose and application.

A. This chapter sets forth uniform requirements for, and shall apply to all persons, discharging stormwater or pollutants to the municipal stormwater system and receiving waters within the City, and requires compliance with all applicable state and federal laws, local ordinances, and this chapter. The purpose of this chapter includes but is not limited to the following:

1. To control the quantity and quality of the stormwater discharged directly and indirectly into the receiving waters within the City and/or the municipal stormwater system;

2. To promote compliance with the City's municipal stormwater permit, its stormwater management program, and applicable federal and state laws and regulations, local ordinances, and this chapter;

3. To protect receiving waters by mitigating the impacts of increased stormwater due to urbanization; to correct or mitigate existing water quality impacts related to stormwater; and to help restore and maintain the chemical, physical, and biological integrity of the City's waters for the protection of beneficial uses, including salmon;

4. To manage stormwater to protect life, property, and the environment from loss, injury, and damage by pollution; to minimize flooding, erosion, and contact with pollutants; and to manage stormwater from developed properties and construction sites;

5. To encourage the use of low impact development as the preferred and commonly-used approach for stormwater management;

6. To require persons regulated by this chapter to pay appropriate rates and fees to reasonably distribute the cost to construct, operate, maintain and improve the municipal stormwater system; and

7. To provide for and promote the health, safety, and welfare of the general public.

B. Compliance with the provisions of this chapter, the state and federal laws that govern municipal stormwater management, the City's municipal stormwater permit, and the City's stormwater management program referenced under this chapter, does not necessarily mitigate all impacts to the environment and should not be construed as such. Additional requirements or mitigation may be necessary to protect the environment pursuant to such other applicable federal or state laws or regulations or local ordinances.

### 12.08D.020 Administration.

#### A. Administration.

The Control Authority shall administer this chapter in accordance with the purposes set forth herein and applicable federal and state laws and regulations, the City's municipal stormwater permit, the City's stormwater management program policies and procedures, and applicable local ordinances. In the event there is a conflict between this chapter and: (a) a provision contained within it; (b) a permit issued under this chapter; or (c) an applicable federal or state law or regulation or local ordinance, the requirement(s) that are more protective of human health and/or the environment shall apply.

#### B. Responsibility for Compliance.

It is the intent of this chapter to place the responsibility for complying with its requirements, and any permit, control mechanism, authorization or approval granted pursuant to this chapter, upon the responsible person, as that term is defined in this chapter.

#### C. Financial Security.

Performance bonding and/or other appropriate financial security may be required for all projects to ensure timely and proper completion of improvements, to ensure compliance with the requirements of the Stormwater Management Manual (SWMM) and City of Tacoma Right-of-Way Design Manual and all other provisions of this chapter, or to warranty materials, workmanship, and performance of design.

D. AKART.

Persons shall apply all known, available, and reasonable methods of prevention, control, and treatment (AKART) to stormwater discharges as required by Chapter 90.48 RCW.

E. Appeals of Decisions and Determinations.

Decisions or determinations made by the Control Authority pursuant to this chapter are governed by TMC Chapter 12.08A; provided that, appeals of enforcement actions taken pursuant to this chapter are governed by TMC Chapter 1.82.

F. Liberal Construction.

The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter.

**12.08D.030 Abbreviations.**

<u>AKART</u>	<u>All known, available, and reasonable methods of prevention, control, and treatment</u>
<u>BMPs</u>	<u>Best Management Practices</u>
<u>EPA</u>	<u>United States Environmental Protection Agency</u>
<u>FIFRA</u>	<u>Federal Insecticide, Fungicide, and Rodenticide Act</u>
<u>LID</u>	<u>Low Impact Development also Local Improvement District</u>
<u>LID BMPs</u>	<u>Low Impact Development Best Management Practices</u>
<u>MHHW</u>	<u>Mean Higher High Water</u>
<u>NAICS Code</u>	<u>North American Industry Classification System Code</u>
<u>NPDES</u>	<u>National Pollutant Discharge Elimination System</u>
<u>O&amp;M manual</u>	<u>Operation and Maintenance Manual</u>
<u>ppm</u>	<u>Parts per million</u>
<u>RCW</u>	<u>Revised Code of Washington</u>
<u>SSP</u>	<u>Stormwater Site Plan</u>
<u>SWMM</u>	<u>Stormwater Management Manual</u>
<u>SWMP</u>	<u>Stormwater Management Program</u>
<u>SWPPP</u>	<u>Stormwater Pollution Prevention Plan</u>
<u>SWMMWW</u>	<u>Washington State Department of Ecology’s Stormwater Management Manual for Western Washington</u>
<u>TMC</u>	<u>Tacoma Municipal Code</u>
<u>WAC</u>	<u>Washington Administrative Code</u>
<u>WSDOT NPDES Permit</u>	<u>Washington State Department of Transportation National Pollutant Discharge Elimination System and State Waste Discharge Municipal Stormwater General Permit</u>

**12.08D.040 Definitions.**

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein unless a different meaning is otherwise plainly required. Words not defined herein shall have the meaning given in TMC Chapter 12.08A, 12.08B or 12.08C. Words not otherwise defined in TMC Title 12, or TMC 1.82.010, shall have the meaning given in such federal and state statutes, rules, or regulations that apply to the activity being regulated. Words not otherwise defined shall be given their common and ordinary meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The words “shall” and “will” are always mandatory and not

merely directory and the word “may” is permissive. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority.

“All known, available, and reasonable methods of prevention, control, and treatment” or “AKART.” The application of all known, available, and reasonable methods of prevention, control, and treatment to stormwater, surface water, and wastewater discharges as required by Chapter 90.48 RCW.

“Approval.” The determination by the Control Authority that the proposed or completed work or activity conforms to this chapter.

“Best Management Practices” or “BMPs.” Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and education practices, maintenance procedures, and structural or managerial practices to prevent or reduce the direct or indirect discharge of pollutants and other adverse impacts to stormwater, receiving waters, or stormwater conveyance systems.

“Benefitted Premises.” For purposes of the Payment In-Lieu-Of Construction Program authorized pursuant to TMC 12.08D.260, the phrase “benefitted premises” shall mean and refer to the specific parcel(s), tract(s), lot(s), or right of way or portions thereof, the development or redevelopment of which has been approved under the Payment In-Lieu-Of Construction Program for mitigation of associated stormwater impacts in-lieu-of constructing individual stormwater treatment and/or flow control best management practices on the project site and/or associated right of way. Such benefitted premises, and associated improvements, shall be described in the voluntary payment agreement.

“City.” The City of Tacoma, Washington, a municipal corporation organized and existing under and by virtue of the laws of the State of Washington. The phrase “within the City” means within the City boundaries as now or hereafter constituted.

“Connection.” A connection to the municipal stormwater system may be a physical connection of a private pipe, ditch, structure or other physical drainage facility to a pipe, ditch, curb, through curb, facility or structure of the municipal stormwater system. A connection to the municipal stormwater system may also be where either a physical facility or pipe or stormwater or other type of flow enters the municipal stormwater system.

“Control authority.” The City’s Environmental Services Department, its Director and its authorized representatives and their successors.

“Control mechanism.” A special approved discharge authorization, a letter, or other written document issued by the control authority that authorizes a discharge of stormwater or a stormwater management activity.

“Covenant and easement agreement” or “C&E agreement.” An agreement that is both a covenant and an easement. For stormwater management purposes, covenant and easement agreements most commonly require parcel owners to inspect and maintain their private stormwater system and additionally allow the City access to the subject property or parcel(s) to inspect such systems.

“Direct discharge parcels.” Those parcels that do not discharge stormwater to the municipal stormwater system and that discharge all, or substantially all, of their stormwater directly into the marine waters of Puget Sound through private stormwater systems that comply with the SWMM. The term marine waters as used herein excludes tidally influenced freshwater bodies that discharge to the Puget Sound.

“Director.” The Director of the City of Tacoma’s Environmental Services Department who is designated to supervise the implementation and enforcement of this chapter or the Director’s duly authorized representatives.

“Disturbed areas.” All areas subject to land disturbing activity.

“Erosion.” The wearing away of the land surface as a result of the movement of water, wind, ice, or any other means.

“Groundwater.” Water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

“Hard surface.” An impervious surface, a permeable pavement, or a vegetated roof.

“Illicit connection.” Any connection to the municipal stormwater system or receiving waters that is not intended, authorized or permitted under this chapter, or used for collecting and conveying stormwater or non-stormwater discharges allowed pursuant to TMC 12.08D.110.

“Illicit discharge.” Any spill or direct or indirect discharge to the City’s municipal stormwater system, groundwater, or receiving waters within the City that is not composed entirely of stormwater or of non-stormwater discharges allowed pursuant to TMC 12.08D.110. Illicit discharges may also include, but are not limited to, discharges of industrial process water, discharges from sanitary sewer connections and interior floor drains, and discharges from car-washing activities and gray water systems.

“Impervious surface.” A non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development, and/or a surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Further definition may be found in the SWMM.

“Land disturbing activity.” Activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling, stockpiling, excavation, and land modification. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Activities limited to vegetation maintenance practices, including landscape maintenance, vegetation management practices, and gardening are not considered land disturbing activity. Stormwater BMP/facility maintenance is not considered land-disturbing activity if conducted according to standards and procedures established in the SWMM or approved by the City in a site specific operation and maintenance plan.

“Low Impact Development” or “LID.” A stormwater and land use management strategy that strives to mimic predisturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

“Low Impact Development Best Management Practices” or “LID BMPs.” Distributed stormwater management practices integrated into a project design that emphasize predisturbance hydrologic processes of infiltration, filtration, storage, evaporation, and transpiration. LID BMPs include, but are not limited to, bioretention, rain gardens, permeable pavements, roof downspout infiltration and dispersion, minimum excavation foundations, vegetated roofs, and water reuse.

“Manual (Department of Ecology).” Refers to the latest version of the Washington State Department of Ecology’s Stormwater Management Manual for Western Washington (SWMMWW).

“Maintenance.” Includes activities conducted on currently serviceable structures, facilities, and equipment that involves no expansion or use beyond that previously existing and results in no significant adverse hydrologic impact. It includes those usual activities taken to prevent a decline, lapse, or cessation in the use of or to repair structures and systems. Those usual activities may include replacement of dysfunctional facilities, including cases where environmental permits require replacing an existing structure with a different type structure, as long as the functioning characteristics of the original structure are not changed. Further definition may be found in the SWMM.

“Maintenance costs.” The total costs of maintaining a regional stormwater facility for which all, or substantially all, of the capacity of the regional stormwater facility to provide stormwater treatment and/or flow control is allocated to provide mitigation capacity under the Payment In-Lieu-Of Construction Program, or the total increase in the costs of maintenance of a regional stormwater facility that has been expanded to provide mitigation capacity under the Payment In-Lieu-Of Construction Program.

“Mean Higher High Water Datum.” A tidal datum related to Mean Higher High Water. The average of the higher high water height of each tidal day observed over the National Tidal Datum epoch. In Tacoma, this will be determined from the National Oceanic and Atmospheric Administration (NOAA) tides and currents statistics, station ID 9446484.

“Mitigation capacity.” Available capacity of a regional stormwater facility to provide stormwater treatment and/or flow control for mitigation of stormwater impacts.

“Multiple-family complex.” Any premise consisting of two or more living units served through a single water meter.

“Municipal stormwater system.” A conveyance, or system of conveyances, not part of a combined sewer, that is owned or operated by the City (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, stormwater BMPs/facilities or storm drains), and is designed or used for collecting, conveying, or managing stormwater.

“Municipal stormwater permit.” The Phase 1 Municipal Stormwater Permit issued to the City by the Department of Ecology under the National Pollutant Discharge Elimination System program, which is also a State Waste Discharge General Permit that authorizes the City to discharge municipal stormwater to state receiving waters.

“Natural drainage course.” Naturally and/or reconstructed naturally occurring surface water bodies, such as creeks, streams, rivers, lakes, wetlands, estuaries, and natural drainage ways that convey surface water and/or stormwater to receiving waters and groundwater.

“New development.” Land disturbing activities, including Class IV – general forest practices that are conversions from timberland to other uses; structural development including construction, installation, or expansion of a building or other structure; creation of hard surfaces; and subdivision and short subdivision of land and binding site plans as defined in RCW 58.17.020.

“North American Industry Classification System Code” or “NAICS Code.” An industrial classification system developed by the United States Office of Management and Budget to classify business establishments for the collection, tabulation, presentation, and analysis of statistical data describing the U.S. economy. Also, see Standard Industrial Classification Code.

“NPDES permit.” A permit issued by the Department of Ecology under the National Pollutant Discharge Elimination System program. Examples of NPDES permits include a NPDES Waste Discharge Permit, a NPDES Municipal Stormwater Permit, a NPDES Construction Stormwater General Permit, a NPDES Sand and Gravel General Permit, a NPDES Wastewater Pretreatment Permit, and an NPDES Industrial Stormwater General Permit.

“Open space parcel with forested land cover.” An undeveloped parcel of land where trees cover the majority of the land surface which is dedicated by deed or other instrument to remain in such condition and which reduces the quantity and improves the quality of stormwater collected by the municipal stormwater conveyance systems through infiltration, filtration, storage, evaporation and transpiration.

“Operational best management practices” or “operational BMPs.” Non-structural practices that prevent or reduce pollutants from entering stormwater.

“Owner.” Any individual, corporation, or entity that holds the title to a real property as shown by the Pierce County Assessor’s records or their designated agent.

“Parcel.” A single platted or unplatted lot, or contiguous lots, or tract of land having the same Pierce County Assessor’s tax identification number. A parcel is usually considered a unit for the purposes of development.

“Partial mitigation.” Mitigation of an entire surface or disturbed area to the maximum extent practicable, as administered under TMC 12.08D.560.

“Person.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08B.

“pH.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08B.

“Pollutant.” Any substance that is discharged to receiving waters or to the municipal stormwater system which is prohibited or limited by the requirements of this chapter or applicable state and federal laws and regulations.

“Premises.” A continuous tract of land, building, or group of adjacent buildings under a single control with respect to use of water and responsibility for payment therefor. Subdivision of such use or responsibility shall constitute a division into separate premises as herein defined, except where more than one dwelling is being served through the same water meter, in which case, each of said dwellings shall constitute a separate premises and shall be subject to separate charges as if separate single-family dwellings.

“Private stormwater BMPs/facilities.” Stormwater BMPs/facilities that are not part of the municipal stormwater system.

“Private stormwater system.” Private stormwater BMPs/facilities and conveyances, or a system of conveyances (including private roads with drainage systems, private streets, catch basins, curbs, gutter, ditches, manmade channels, or storm drains) that are not part of the municipal stormwater system.

“Property.” Any building, object, site, structure, improvement, public amenity, parcel of land, space, streetscapes and rights-of-way, or area.



“Public utility facility.” The whole or a partial component of a stormwater BMP/facility which may include pipes, manholes, catch basins, stormwater treatment and flow control BMPs/facilities, open spaces, or any other areas that contribute to the function of the facility.

“RCW.” The Revised Code of Washington as now or hereafter amended.

“Receiving water(s).” The naturally and/or reconstructed naturally occurring surface water bodies, such as creeks, streams, rivers, lakes, wetlands, estuaries, and marine waters, or groundwater, which receive stormwater from and/or within the City or to which a municipal stormwater system discharges.

“Redevelopment.” On a site that is already substantially developed (defined as having 35% or more of existing hard surface coverage – when determining percentage, only include those areas that are buildable): the creation or addition of hard surfaces, the expansion of a building footprint or addition or replacement of a structure, structural development including construction, installation or expansion of a building or other structure, replacement of hard surface that is not part of a routine maintenance activity, and/or land disturbing activities.

“Regional stormwater facility.” For purposes of the Payment In-Lieu-Of Construction Program authorized pursuant to TMC 12.08D.260, the phrase “regional stormwater facility” shall mean and include, (1) a single stormwater BMP/facility designed to provide stormwater treatment and/or flow control for a large region or portion of a basin or subbasin and designated by the Control Authority to be utilized under the Program to provide mitigation capacity, and (2) multiple stormwater BMPs/facilities that are designed to provide water quality and/or flow control for a large region or portion of a basin or subbasin and designated by the control authority to be utilized under the Program to collectively provide mitigation capacity.

“Responsible person.” Shall have the meaning as set forth in TMC 1.82.010, the Uniform Enforcement Code.

“Single-family residence.”

A. Any building or portion thereof, which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, for use by not more than one family;

B. Instances in which more than one residence is served through a single water meter; and

C. Those individual units within multi-family complexes that are served by a separate water meter.

“Source control BMP.” A structure or operation that is intended to prevent pollutants from coming into contact with stormwater through physical separation of areas or careful management of activities that are sources of pollutants. Structural source control BMPs are physical, structural, or mechanical devices, or facilities that are intended to prevent pollutants from entering stormwater. Operational source control BMPs are non-structural practices that prevent or reduce pollutants from entering stormwater.

“Spill.” An unauthorized discharge of a pollutant or other substance that is not composed entirely of stormwater into the municipal stormwater system, groundwater, a receiving water, or the ground surface. The definition does not include allowable or conditional non-stormwater discharges which are authorized pursuant to TMC 12.08D.110.

“Storm drains.” The enclosed conduits that transport stormwater runoff toward receiving waters.

“Stormwater.” That portion of precipitation, including snowmelt, that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes, and other features of a stormwater system into a receiving water or stormwater BMP/facility. May also be referred to as “stormwater runoff.”

“Stormwater BMP/facility.” A component of the stormwater system designed or constructed to perform a particular function or multiple functions such as stormwater treatment, flow control, or conveyance. Stormwater BMP/facility includes any permanent stormwater BMP/facility and structural BMPs, and also includes stormwater treatment and flow control BMPs/facilities and shall include catch basins that are part of the stormwater BMP/facility. Stormwater BMPs/facilities may either be part of a private stormwater system or the municipal stormwater system.

“Stormwater Management Manual” or “SWMM.” The most recent version of the Stormwater Management Manual as adopted or amended by the City Council.

“Stormwater Management Program” or “SWMP.” A set of actions and activities designed to reduce the discharge of pollutants from the municipal stormwater system to the maximum extent practicable as required by the City’s Municipal Stormwater Permit and this chapter.

“Stormwater pollution prevention plan” or “SWPPP.” A document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at a premises or parcel and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable. A SWPPP may be used as a construction SWPPP for activities during construction or as an operational SWPPP for ongoing activities at a site.

“Stormwater site plan” or “SSP.” A comprehensive report and drawing(s) containing the technical information and analysis necessary to evaluate projects for compliance with the applicable stormwater requirements in this chapter.

“Stormwater treatment and flow control BMPs/facilities.” Detention facilities, permanent treatment BMPs/facilities, and bioretention, vegetated roofs, and permeable pavement that help meet Minimum Requirement #6 (stormwater treatment), #7 (flow control), or both.

“Structural best management practices” or “structural BMPs.” Physical, structural, or mechanical BMPs, which may include devices, or facilities that are intended to prevent pollutants from entering stormwater.

“Surface water.” Waterbodies, such as creeks, streams, rivers, lakes, wetlands, estuaries, and marine waters.

“Supplemental charges.” Charges that may be assessed to a responsible person by the control authority to recover the costs it incurs to address and respond to a violation of Chapter 12.08D TMC including, but not limited to: (i) personnel costs, both direct and indirect; (ii) costs to investigate, contain, and abate the discharge, including cleaning up any contamination caused by the discharge; (iv) costs to document and enforce a violation of Chapter 12.08D TMC; (v) costs to hire a contractor(s) or consultant(s) to respond to such violations; (vi) laboratory costs and analytical expenses; (vii) costs for equipment, materials, and supplies; (viii) mobilization, transportation, treatment, storage, and disposal costs; (ix) attorney’s fees, when authorized; (x) costs required for printing or mailings; and (xi) costs to collect unpaid supplemental charges.

“System development charge.” A charge assessed to the property owner under this chapter that represents the property owner’s reasonable share of the present worth of capital costs associated with the City-owned regional stormwater facilities that will be designated under the Payment In-Lieu-Of Construction Program to mitigate for stormwater impacts associated with the permitted project.

“Track-out.” Material such as dirt, mud and other debris that is deposited beyond the limits of a construction site or other site by vehicles exiting a construction site, a commercial or industrial facility, or any other parcel.

“Voluntary payment agreement.” An agreement entered into as part of Payment In-Lieu-Of Construction Program, by, and between the property owner and the City which sets forth the terms and conditions pursuant to which the applicant agrees to pay a system development charge in consideration for the City’s covenant to make mitigation capacity available to mitigate stormwater impacts associated with development or redevelopment of the benefitted premises.

“WAC.” The Washington Administrative Code as now or hereafter amended.

“Wastewater.” Shall have the same meaning as that term is given pursuant to TMC Chapter 12.08B.

“Waterfront discharge parcels.” Those parcels directly abutting Puget Sound with at least 50 feet of frontage and those parcels contiguous with the Puget Sound that do not discharge stormwater to the municipal stormwater system and that discharge, by private means, all or substantially all of their stormwater directly into the marine waters of Puget Sound. The term marine waters as used herein excludes tidally influenced freshwater bodies that discharge to the Puget Sound.

## GENERAL STORMWATER SYSTEM REQUIREMENTS

### 12.08D.100 Regulated activities.

This chapter regulates all direct and indirect discharges to receiving waters and the municipal stormwater system, including discharges to private stormwater systems that discharge directly or indirectly to receiving waters or the municipal stormwater system, and any other direct or indirect discharge to receiving waters or the municipal stormwater system from real property or right-of-way.

### 12.08D.110 Allowable, conditional, and prohibited discharges.

#### A. Allowable Discharges.

Clean, uncontaminated stormwater from rain, snowmelt, and other types of precipitation is an allowed discharge to the municipal stormwater system.

In addition to the above, the following are not prohibited discharges for the purposes of this chapter unless the control authority determines that the discharge, whether alone or in combination with other discharges, is causing or is likely to cause a violation of this chapter or the municipal stormwater permit:

1. Diverted stream flows;
2. Rising groundwater;
3. Uncontaminated groundwater infiltration- as defined in 40 CFR 35.2005(b)(20);
4. Uncontaminated pumped groundwater;
5. Foundation drains;
6. Air conditioner condensation;
7. Irrigation water from agricultural sources that is commingled with urban stormwater;
8. Springs;
9. Uncontaminated water from crawl space pumps;
10. Footing drains;
11. Flows from riparian habitats and wetlands; and
12. Discharges from emergency firefighting activities.

#### B. Conditional Discharges.

The following are not prohibited discharges for the purposes of this chapter if the applicable discharge requirements outlined below are met; unless the control authority determines that the discharge, whether alone or in combination with other discharges, is causing or is likely to cause a violation of this chapter or the municipal stormwater permit:

1. Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted if necessary, and in volumes and velocities controlled to prevent resuspension of sediments in the municipal stormwater system. In all cases, the receiving storm pipe and downstream system shall be monitored as directed by the control authority for the duration of the discharge. All discharge volumes and velocities shall be controlled to prevent resuspension of sediments in the municipal stormwater system and/or structural damage to the conveyance system;
2. Lawn watering and other irrigation runoff are permitted but shall be minimized;
3. Dechlorinated swimming pool discharges. These discharges shall be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted and re-oxygenated if necessary. Such discharges shall also be at a volume and velocity that is controlled to prevent resuspension of sediments in the municipal stormwater system. Discharges shall be thermally controlled to prevent an increase in temperature of the receiving water;

4. Street and sidewalk wash water, water used to control dust, and routine external building wash down that do not use detergents are permitted if the amount of street wash water and dust control water used is minimized. At active construction sites, street sweeping must be performed prior to washing the street;

5. Non-stormwater discharges covered by another NPDES permit or State Waste Discharge permit, provided that the discharge is in full compliance with all requirements of such permit, or waiver, or order and all applicable laws and regulations and written approval has been granted by the control authority for any non-stormwater discharge to the municipal stormwater system. The control authority may require the discharge to be in compliance with the requirements of a SWPPP reviewed and approved by the control authority; and

6. Other non-stormwater discharges. The control authority may, in its discretion issue a special approved discharge authorization allowing non-stormwater discharges not covered by a NPDES permit to be discharged to the municipal stormwater system when such discharges are in compliance with the requirements of a SWPPP reviewed and approved by the control authority.

### C. Prohibited Discharges.

No person shall throw, drain, spill, or otherwise discharge, cause, or allow others under their control to throw, drain, spill, or otherwise discharge any substance not specifically allowed or conditionally allowed into the municipal stormwater system or receiving waters. By way of example and not limitation, discharges that are contaminated with the following substances are prohibited.

1. Petroleum products including, but not limited to, oil, gasoline, grease, fuel oil, and heating oil;

2. Antifreeze and other automotive products;

3. Metals in either particulate or dissolved form;

4. Flammable or explosive materials;

5. Radioactive material;

6. Batteries;

7. Acids, alkalis, or bases;

8. Paints, stains, resins, lacquers, or varnishes;

9. Degreasers and/or solvents;

10. Drain cleaners;

11. Pesticides, herbicides, or fertilizers unless preapproved as set forth at TMC 12.08D.150.F;

12. Soaps, detergents, or ammonia;

13. Steam-cleaning wastes;

14. Swimming pool or spa filter backwash;

15. Chlorine, bromine, or other disinfectants;

16. Heated water;

17. Domestic animal wastes;

18. Sewage;

19. Recreational vehicle waste;

20. Animal carcasses;

21. Food wastes or products, trash, or debris not otherwise enumerated in this section;

22. Bark and other fibrous materials;

23. Lawn clippings, leaves, or branches;

24. Silt, sediment, concrete, cement, gravel, asphalt, or construction materials, including track-out;

25. Chemicals not normally found in uncontaminated water;

26. Any other process-associated discharge, except as otherwise allowed in this section;

27. Any other material that is regulated as a hazardous substance or hazardous or dangerous waste by federal, state, or local laws and regulations; and

28. Discharge or overflow from fountains or other outdoor water features.

D. System Overburden.

This section shall not limit in any way the control authority's ability to deny permission to discharge into the municipal stormwater system when such discharge could overburden the municipal stormwater system.

E. Prohibition of Illicit Connections.

The construction, use, maintenance, or continued existence of illicit connections to the municipal stormwater system is prohibited, regardless of whether such connection was lawful at the time it was made. It shall be a violation of this chapter to connect a pipe, or other conveyance, conveying sewage or any other prohibited substance enumerated in this chapter to the municipal stormwater system or receiving waters, or to allow discharge through such a connection to continue.

F. Illicit discharges to the municipal stormwater system and receiving waters are prohibited and are subject to enforcement as prescribed by this chapter.

#### **12.08D.120 Requirement to Report Spills, Releases, or Illicit Discharges.**

Immediately, but no later than twenty-four (24) hours after first becoming aware of such an event, any responsible person shall report to the control authority any spill, release, illicit discharge, or other incident causing a discharge that has contributed or is likely to contribute pollutants to the municipal stormwater system or a receiving water. Spills shall be reported to the control authority. This reporting requirement is in addition to any other reporting requirements imposed pursuant to federal and state laws and regulations, and local ordinances.

#### **12.08D.130 Private use of public utility facilities.**

No person shall enter into or place, install, or affix any temporary or permanent private object, material, device, or other appurtenance within a public utility facility without written permission of the control authority. Certain utility facilities located within the right-of-way or in public easements could be damaged or their function disrupted by trespass or placement of non-approved items or other appurtenances. If such items are found in these facilities, they shall be removed without notice and disposed of by the City.

#### **12.08D.140 Special approved discharges to municipal stormwater system.**

A. The control authority may conditionally approve non-stormwater discharges to the municipal stormwater system by issuing a special approved stormwater discharge permit. Except as otherwise provided for herein, the rates and fees for discharging non-stormwater to the municipal stormwater system shall be established by ordinance or resolution of the City Council and consist of a special approved stormwater discharge permit application fee for each discharge location requested by the applicant and a special approved stormwater discharge permit quantity rate.

Applications for a special approved stormwater discharge permit shall be submitted at least 30 days prior to the requested discharge date.

B. The control authority may require that samples be taken of the proposed discharge to ensure compliance with federal, state, and local water quality requirements. Samples will be analyzed based on known and/or suspected pollutants in the proposed discharge. Sampling and analysis, when required, must be completed and results submitted to the control authority for review prior to any discharge to the municipal stormwater system. The control authority may require additional sampling as needed to ensure compliance with the above-referenced requirements.

C. Payments shall be made in a manner and at the frequency determined by the control authority.

### **12.08D.150 Stormwater program requirements.**

A. Pursuant to the terms of the municipal stormwater permit, the City has implemented a stormwater management program that includes the use of its SWMM, and regulations and administrative procedures, which are administered by the control authority.

B. The following activities are regulated through the stormwater management program under this chapter:

1. Direct and indirect discharges to the municipal stormwater system or receiving waters within the City, including discharges related to stormwater maintenance activities.

C. Minimum Source Control Requirements for Existing Discharges.

Source control BMPs shall be implemented by all property owners, residents, businesses, and public entities engaged in pollution generating activities.

1. If the control authority determines that discharges from a property or right-of-way cause or contribute to an illicit discharge, a nuisance, a threat to public health and safety, or a violation of the municipal stormwater permit or this chapter, the control authority shall require the responsible person to implement and maintain BMPs in accordance with the SWMM. Structural source control BMPs, or treatment BMPs/facilities, or both, shall be required if operational source control BMPs do not prevent illicit discharges or violations of surface water, groundwater, or sediment management standards because of inadequate stormwater controls. BMPs shall be designed, operated, and maintained in accordance with the SWMM.

2. The control authority shall also require persons responsible for track-out conditions on streets or alleys to implement and maintain operational BMPs in accordance with the SWMM to prevent polluted matter from entering the municipal stormwater system.

3. Source control activities and BMPs shall be implemented to the extent necessary to prevent prohibited discharges and to prevent contaminants from coming in contact with stormwater. Source control activities and BMPs include, but are not limited to, segregating or isolating wastes to prevent contact with stormwater; enclosing, covering, or containing the activity to prevent contact with stormwater; developing and implementing inspection and maintenance programs; sweeping; and taking management actions, such as training employees on pollution prevention. Source control can also include structural source control BMPs, or treatment BMPs/facilities, or both.

4. Spill prevention BMPs shall be required for all businesses and public entities engaged in pollution generating activities and as otherwise required by the control authority. Minimum requirements for spill prevention shall include developing and implementing plans and procedures to prevent spills and other accidental releases of materials that may contaminate stormwater or receiving waters. This requirement may be satisfied either by implementation of a SWPPP prepared in compliance with an NPDES stormwater permit for the site; or implementation of procedures for immediate containment and other appropriate action regarding spills and other accidental releases to prevent contamination of stormwater; and providing necessary containment and response equipment on-site. Personnel shall be trained regarding procedures and equipment to be used for spill prevention and cleanup.

D. Minimum Requirements for New Development and Redevelopment.

New development and redevelopment activities that meet or exceed the thresholds outlined in the SWMM shall comply with the minimum requirements contained in the SWMM.

E. Exemptions.

Except as otherwise provided herein, development undertaken by the Washington State Department of Transportation in state highway rights-of-way that it owns or controls by long-term lease or easement, or for which it has maintenance responsibility, if undertaken in compliance with a WSDOT NPDES Permit, is exempt from the requirements of TMC 12.08D.150.D. Provided, however, that where a provision of TMC 12.08D.150.D is more stringent than a corresponding provision in the WSDOT NPDES Permit, the provision of TMC 12.08D.150.D shall apply. The Washington State Department of Transportation shall submit copies of plans for these exempt development activities within the aforementioned rights-of-way to the control authority prior to commencing such activities.



## F. Stormwater Maintenance Activities.

Proper maintenance of all municipal stormwater systems and all private stormwater systems shall be required in accordance with the SWMM or other control authority approved standards.

1. Maintenance and Inspection. All private stormwater systems shall be maintained by the owner, or the homeowner and/or homeowner association or similar organization, if one is established as part of a residential or commercial development. All private stormwater systems shall be regularly inspected by the owner or other responsible person to ensure proper operation and monitored as required or as set forth in the SWMM or O&M manual approved by the control authority. The owner, or homeowner and/or owner association or other responsible person, shall maintain records of inspection and maintenance, disposal receipts, and monitoring results. The records shall catalog the action taken, the person completing the action, the date said action was taken, how the action was completed, results of any monitoring efforts, and any problems encountered or follow-up actions required. The records shall be made available to the control authority upon request. The owner, or homeowner and/or owner association, or other responsible person shall maintain a copy of the O&M manual on site, and shall make reference to such document in real property records filed with the Pierce County Auditor, so others who acquire real property served by the private stormwater systems or controls are notified of their obligation to maintain such private stormwater systems.

2. Control Authority Inspection and Maintenance. The control authority is authorized to inspect all private stormwater systems in accordance with TMC 12.08D.300 to ensure they are properly operating and are being properly maintained. If the stormwater system is not properly maintained, the control authority may notify the owner(s) that maintenance is required. If the owner(s) fails to maintain the stormwater system, the control authority may, with written notice to and permission of the owner(s), maintain the stormwater system and bill all associated costs to the owner as supplemental charges. In the event that emergency maintenance is needed to protect human health, property, or improvements and a reasonable attempt to contact the owner(s) is impracticable under the circumstances due to the potential for imminent harm or danger to persons or property, or such attempt at notice has failed, the control authority may exercise its legal rights and authority to protect health and property.

3. Pest Control for Stormwater BMPs/Facilities. Use of pesticides, including herbicides, fungicides, and molluscicides in or adjacent to stormwater BMPs/facilities shall only be approved if applied in accordance with the specific operations and maintenance plan approved by the control authority for the BMP/facility, EPA's guidance on integrated pest management and other applicable BMPs. The least invasive method of pest control shall be employed, which may include pesticide use if it is infeasible to use other control methods. Pesticide use shall be in accordance with the federal and state laws and regulations, including, but not limited to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. §136 et seq.) and specific restrictions or permitting required by the EPA, Department of Ecology and State Department of Agriculture. All pesticide application shall be applied only by or under the direct supervision of specially trained and certified Pesticide Applicators or Aquatic Pesticide Applicators.

4. Persons required to construct a stormwater BMP/facility pursuant to older or replaced site development or stormwater regulations, which is covered by a maintenance or defect financial guarantee or which has been released from all required financial guarantees prior to the effective date of this section, and all persons holding title to the property for which a facility was required shall be responsible for the continual operation and maintenance of the facility in accordance with standards and requirements that were the basis of approval of the site development permit and for any liability as a result of breach of these duties.

### **12.08D.160 Exceptions and adjustments procedure.**

#### A. General.

Requests for exceptions from or adjustments to the minimum requirements of TMC 12.08D.150.D may be made according to the requirements of the SWMM and this section. Any such request must be made in writing and, at a minimum, contain the information outlined in the SWMM.

B. The approval of plans, specifications, and calculations for an exception or adjustment shall not prevent the control authority from requiring the correction of errors in such plans, specifications, or other data, or from enforcing the requirements of this chapter and any other provisions of the Tacoma Municipal Code.



C. The following public notice requirements apply whenever a request for an exception to the minimum requirements is received by the control authority. Requests for adjustments are not required to follow this section.

1. Public notice shall be made to inform the public about the contents of the request and the control authority's decision to grant or deny it. Notice of the request and the control authority's decision to grant or deny the request may be combined.

2. The notice shall be published for a minimum of one day, at the requester's cost, in the City's newspaper of record and a newspaper of general circulation within the City. The notice shall also be published on the City's website for a minimum of one day.

3. The notice shall include: (i) a brief description of the request; (ii) a brief description of the control authority's decision to grant the request and the reasons supporting the decision, or a statement that the request is denied; (iii) how and where the request and the control authority's decision to grant or deny the request can be reviewed; and (iv) the name and contact information of a City employee who can answer questions regarding the request.

4. The City shall provide a copy of the control authority's decision to grant or deny a request to the requester. The control authority's decision to approve or deny a request shall include a reference to the procedures in TMC 12.08A.140 for appealing such decision.

D. Appeals to the Hearing Examiner.

Appeals of the control authority's decision on a request for an exception or adjustment shall be made to the Hearing Examiner in accordance with TMC 12.08A.140.

#### **12.08D.170 Covenant and easement agreement.**

Property owners and homeowner associations or similar organizations, if one is established as part of a residential or commercial development for all projects that install privately owned stormwater BMPs/facilities and or private stormwater systems, shall enter into a covenant and easement agreement with the City in a form and content approved by the City Attorney. The covenant and easement agreement shall allow the control authority to access the property to inspect private stormwater BMPs/facilities or private stormwater systems, and shall, in the case of an emergency or owner neglect, authorize the control authority to repair and maintain such stormwater BMPs/facilities and systems. The covenant and easement agreement shall be recorded to the property title with the Pierce County Auditor's Office by the property owner as a condition precedent to issuance of applicable permits or authorizations, unless otherwise specified by the control authority.

#### **12.08D.180 Connections to municipal stormwater system.**

Owners of premises within the City adjacent to and abutting upon the municipal stormwater system or agents of such owners may, upon receipt of a permit to connect to the municipal stormwater system issued by the City, connect such premises to the municipal stormwater system and discharge stormwater into the municipal stormwater system. Such connections, including extensions necessary to make a connection, shall be in accordance with this chapter, the City's Stormwater Management Manual, Right-of-Way Design Manual and other applicable requirements under the Tacoma Municipal Code. Such permit shall be issued only upon written application to the control authority by the owner of the premises, or owner's agents, to be served and shall be subject to the following terms and conditions:

A. The property owner or agent shall obtain all permits and pay all fees required by the City prior to making a connection to the municipal stormwater system;

B. Extensions from premises to the municipal stormwater system for the purposes of connection shall be the responsibility of the owner of the premises;

C. Mitigation for system capacity shall be the responsibility of the applicant and shall be undertaken in accordance with this chapter, the City's Stormwater Management Manual, Right-of-Way Design Manual and other applicable City regulations and ordinances;

D. Compliance with applicable Local Improvement District agreements;

E. Connections shall only convey discharges that comply with the requirements of TMC 12.08D.110; and

F. Persons who violate the requirements of this section are subject to enforcement authorized by state law, and this chapter, including emergency suspension of service.

## RATES AND FEES

### 12.08D.200 Regular review of stormwater rates and fees.

The control authority shall conduct regular reviews of the stormwater rates and fees established by the City Council to confirm that all costs to manage, operate, and improve the municipal stormwater system are being properly recovered according to City ordinances, state laws, and federal regulations.

### 12.08D.205 Establishment of stormwater utility.

A. In March of 1977, the City Council, pursuant to Resolution No. 24356, declared its intent to create a municipal stormwater utility including establishing a proposed rate structure and transferring storm sewer assets from the General Fund to the new stormwater utility. In February of 1979, the Sewer Utility Division of the Department of Public Works published the City of Tacoma Storm Drain Utility Formation and Rate Report recommending that the City Council pass an ordinance establishing a new municipal stormwater utility and adopting the rate structure as set forth in the Formation and Rate Report. This report is adopted by reference herein as the basis for the formation of the municipal stormwater utility and the model for municipal stormwater utility rates. In April of 1979, the City Council enacted Ordinance No. 21638 consolidating the City's storm and surface water infrastructure to form the municipal stormwater utility. Contemporaneously, the City Council, pursuant to Ordinance No. 21632 and under authority of Chapter 35.67 RCW, repealed and re-enacted Chapter 12.08 of the Tacoma Municipal Code establishing the municipal stormwater utility and the rate model establishing rates and charges to fund the costs of maintaining, operating, managing and making capital improvements to the municipal stormwater system utility, managing and administering the stormwater utility, providing public education and outreach, and enforcing regulatory compliance with the provisions of this chapter. Under the rate model, the applicable rate is determined based upon the area of each parcel of land and the land use designation of the parcel, placing each parcel into one of five basic categories of development using an industrial classification manual. The basic category of development correlates to the amount of impervious surface of the premises.

B. The municipal stormwater utility is necessary to further the public health, safety, and welfare by, among other things:

1. Consolidating the City's stormwater BMP/facilities and system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, treatment and flow control stormwater BMPs/facilities devices or storm drains) designed and used for collecting, conveying, and managing stormwater;
2. Promoting a comprehensive approach to controlling stormwater runoff;
3. Providing for the management, operation, maintenance and improvement of the municipal stormwater system;
4. Protecting against property damage, personal injury, and other economic damages;
5. Protecting and preserving transportation corridors and routes of travel;
6. Reducing flooding, erosion, sedimentation, and the discharge of pollutants;
7. Protecting aquatic resources;
8. Preventing and mitigating against habitat loss;
9. Enhancing groundwater recharge;
10. Managing open spaces to control stormwater runoff; and
11. Enhancing environmental protection.

Accordingly, all real property in the City benefits from the establishment, operation, management, maintenance, and improvement of the municipal stormwater utility and municipal stormwater system.

### 12.08D.210 Stormwater rates and fees.

A. The City is authorized to establish and impose stormwater rates and fees for all parcels of real property within the City limits. Such rates and fees shall be calculated in accordance with this chapter and established by ordinance or resolution of the City Council.

B. The City is also authorized to establish and impose stormwater rates and fees when necessary to recover the cost of authorizing and regulating one-time, or short-term, discharges to the municipal stormwater system.

C. The control authority shall determine what rates and fees shall apply to each specific parcel in accordance with this section, subject to the exclusions in TMC 12.08D.240.

D. Stormwater rates and fees are calculated based on the following:

1. Unless otherwise provided for in this chapter, each parcel will be charged a monthly Stormwater Fixed Fee and a Stormwater Rate based upon the square footage of the parcel and the land use designation of the parcel.

Except as otherwise provided for in this chapter, for purposes of computing stormwater rates and fees under this section, the land use designation shall be classified based on the principal activity on the parcel using the North American Industry Classification System (NAICS, 2002) Code, adopted hereby for this purpose. The land use designation correlates to the level of development and amount of impervious surface on the parcel. Additional land use or location specific categories are further outlined in TMC 12.08D.210.E which are also considered in determining the Stormwater Rate. The control authority shall determine the land use or location specific category for each parcel based upon the principal activity on or use of the parcel and place each parcel in one of the five following specific categories, hereinafter referred to as “Basic Categories of Development,” as to each of which the Stormwater Rate per month per 500-square-foot increment of parcel area shall apply. The basic categories of development used for billing are: (a) Undeveloped; (b) Light; (c) Moderate; (d) Heavy; and (e) Very Heavy. Each basic category of development has been assigned a range of overall parcel runoff factors per the table below:

<u>BASIC CATEGORIES OF DEVELOPMENT</u>	<u>RANGE OF OVERALL PARCEL RUNOFF FACTORS</u>
<u>(a) Undeveloped</u>	<u>0 to 0.22</u>
<u>(b) Light</u>	<u>0.23 to 0.39</u>
<u>(c) Moderate</u>	<u>0.40 to 0.56</u>
<u>(d) Heavy</u>	<u>0.57 to 0.79</u>
<u>(e) Very Heavy</u>	<u>0.80 to 1</u>

The overall parcel runoff factor is related to the amount of impervious surfaces on a site. The more intensely a site is developed the higher the overall parcel runoff factor. Each NAICS code has been assigned an overall parcel runoff factor based upon typical development intensity for the uses represented by the NAICS code. The overall parcel runoff factor provides the correlation from NAICS code to the basic category of development utilized for stormwater billing.

2. In the event the control authority determines that the assigned NAICS code classification does not correlate to existing site conditions, the control authority may, in-lieu of classification based on NAICS code, calculate impervious surfaces on the site in accordance with policies, procedures, requirements, and guidelines promulgated and published by the Director, to determine which basic category of development should be applied.

3. If a parcel is redeveloped, segregated, or combined with another parcel, the revised parcels and, if applicable, land use designation or other land use or location specific designation in TMC 12.08D.210.E, will be used to reestablish the basic category of development per TMC 12.08D.210.D.2 that will be assigned to the parcel for municipal stormwater utility billing purposes.

4. For purposes of computing stormwater rates and fees, the area of the parcel shall be rounded to the nearest 500-square foot increment (the area of premises less than 500-square feet shall be set at 500-square feet) and the number of such increments shall be multiplied by the applicable Stormwater Rate.

5. Stormwater rates shall be computed by carrying the computation to the third decimal place and rounding to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four.

6. Residential customers who qualify as low-income senior or low-income disabled under TMC 12.06.165.B shall be eligible for a reduction from the regular stormwater rates and the fixed fee, the percentage of which will be established by ordinance or resolution of the City Council. The determination of low-income senior and low-income disabled status shall be made as set forth in TMC 12.06.165.B. Individuals must submit an application documenting

such determination for review and acceptance by the control authority to qualify for this reduction. The effective date for the rate reduction shall be the first day of the billing period on which the control authority's acceptance is granted.

E. Land use or Location Specific Stormwater Rate Categories.

1. All parcels that do not meet the definition of a waterfront or direct discharge parcel, shall be considered a non-waterfront/non-direct discharge parcel.

2. Waterfront and direct discharge parcels shall be subject to the waterfront/direct discharge stormwater rate for the applicable basic category of development. For purposes of computing the stormwater rate for waterfront/direct discharge parcels, the area of each parcel above MHHW elevation shall be used to determine the parcel size.

3. Parcels contiguous with waterfront discharge parcels which are under common ownership and discharge 100 percent of stormwater flow to the contiguous waterfront discharge parcel, and that do not discharge stormwater to the municipal stormwater system, shall be charged the waterfront discharge stormwater rate established by ordinance or resolution of the City Council.

4. Open space parcels with forested land cover shall be charged only the stormwater fixed fee and no stormwater rate for square footage will be applied to these parcels.

5. For undeveloped parcels over one acre, the first acre shall be billed at the undeveloped first acre or less stormwater rate, and any area over one acre shall be billed at the undeveloped area in excess of one acre stormwater rate.

6. Single-family residential parcels will be assigned the "moderate" basic category of development for determination of monthly stormwater rates. Single-family residential parcels of 15,000 square feet or more shall be billed at the "moderate" basic category of development stormwater rate for the first 15,000 square feet and the remainder at the undeveloped first acre or less basic category of development stormwater rate, unless the parcel is inspected by the control authority and placed in a different basic category of development, in which case the first 15,000 square feet shall pay the stormwater rate assigned to such basic category of development and the remainder at the undeveloped first acre or less basic category of development stormwater rate.

**12.08D.220 Billing for stormwater rates and fees - frequency, payments, and collections.**

A. Persons responsible for paying wastewater rates or other City utility rates shall also be responsible to pay monthly or bimonthly stormwater rates and fees. Owners of vacant property or property not otherwise receiving City utility bills shall be billed and are responsible to pay stormwater rates and fees that are assessed to such property. Owners or other persons responsible for paying stormwater rates and fees may make a written request that such rates and fees be billed to another party by the control authority. Approval of such request shall not release the requester from responsibility for payment of delinquent stormwater rates and fees, or other charges including, but not limited to related interest, costs and fees allowed under this chapter and by applicable state law, nor does it release the requester from any lien filed on the subject parcel. Owners of parcels that are contiguous and have a single land use designation may receive a single bill for stormwater rates and fees for all contiguous parcels if such parcels are consolidated on the Pierce County Assessor's tax rolls.

B. All bills for stormwater rates and fees as established by ordinance or resolution of the City Council shall be billed monthly or bimonthly as shall be determined by the control authority and shall become due and payable at the office of the City Treasurer or such other places as approved by the City Treasurer on or before the 15th day after the statement has been mailed and shall become delinquent thereafter.

C. For any stormwater rate and/or fixed fee that becomes delinquent, the responsible person shall be charged a late payment fee as set forth in TMC Chapter 12.01. Any stormwater rate and/or fixed fee that becomes delinquent, together with interest, also shall immediately become a lien against the premises served pursuant to RCW 35.67.200. Such lien may be foreclosed by the City in the manner provided by Chapter 35.67 RCW. In the event that the City files or releases a lien with the County Auditor, a processing fee will be added to the delinquent amounts owed equivalent to the current fees charged by the County Auditor for filing or releasing a lien. The processing fee will be allocated to the Stormwater Fund, as appropriate, and, for City tax purposes, recorded as revenue. In addition to such foreclosure, a customer with a stormwater account that is delinquent is also subject to termination of City water utility services for the subject premises (or other premises owned or rented by the customer), until such time as payment arrangements are made with the control authority to satisfy the delinquency.

#### **12.08D.230 Reconsideration of stormwater rates.**

A. Owners or other persons responsible for paying stormwater rates for a parcel may request that the control authority review the rates they are being charged if they believe such rates are based on erroneous information. Such requests shall be made in writing and include the parcel number and a detailed description of the erroneous information alleged in the request. Upon receipt of such request, the control authority shall evaluate the requester's information against the criteria set forth in the applicable provisions of this Chapter the Control Authority's written policies for reconsideration of stormwater rates, applicable state laws, and other factors reasonably related to the determination of whether the requester's stormwater rate is based on erroneous information. If the control authority determines that a requester's stormwater rate is based on erroneous information, the control authority shall adjust the charge to reflect the proper rate under this chapter.

B. Owners or other persons responsible for paying stormwater rates and fees for a parcel may request that the control authority determine whether the City's use of a private stormwater system on or at a specific parcel benefits the municipal stormwater system or provides a stormwater benefit for a City-owned or operated property including public rights-of-way and is grounds for reducing stormwater rates. Collection from single premises and concentrating the flow, collection of surface water that is piped through or underneath the surface of a property, or management or acceptance of water that flows via a natural drainage course through a property, shall not constitute grounds for a rate reduction under this subsection. It shall be the requester's responsibility to provide the control authority with all information needed to evaluate the private stormwater system, including but not limited to, building permits, stormwater calculations, design drawings, engineering reports, SSPs, or other information requested by the City that may be needed to evaluate the private stormwater system.

#### **12.08D.240 Exclusions of certain properties from stormwater rates and fees.**

Stormwater rates and fees shall not be levied directly to any City street, road, alley or right-of-way where the stormwater function has been transferred to and made a part of the municipal stormwater system by Ordinance No. 21638 passed April 3, 1979, and all streets, roads, alleys or rights-of-way created and acquired by the City since April 3, 1979. The City Council finds all City streets, roads, alleys and rights-of-way collect and transport stormwater from multiple individual properties, which provides stormwater management benefits to the City, which corresponds to a value equal to the reasonable charge therefor that would otherwise be charged by the City for such streets, roads, alleys, and rights-of-way.

#### **12.08D.250 Low impact development stormwater rate reduction.**

A. For parcels that provide additional low impact development BMPs and features beyond those required by the SWMM to mitigate the stormwater impacts of new development or redevelopment, or if low impact development is used to mitigate existing stormwater discharges that were not required to install low impact development BMPs at the time of new development or redevelopment (collectively or individually the "low impact improvement"), a rate reduction in the stormwater charge(s) applicable to those parcels may be allowed by the control authority in accordance with this section. All stormwater facilities and low impact improvements shall be designed in accordance with the applicable BMPs and requirements of the SWMM. All designs shall be reviewed and approved by the control authority prior to installation.

In order to qualify for a rate reduction under this section, the owner shall submit the request for a rate reduction to the control authority prior to construction of the proposed low impact improvements, obtain all required permits for such work, and satisfy the following requirements:

1. Where the low impact improvement is built for mitigating the impacts of stormwater based on new development or redevelopment that has met the thresholds for Minimum Requirement #5 as defined in the most recent version of the SWMM, the owner of the parcel must have obtained the required permits and constructed the low impact improvement according to plans approved by the control authority, and the low impact improvement must include LID BMPs or features beyond those required by the minimum requirements of the SWMM in effect at the time of new development or redevelopment.
2. Where the low impact improvement is built to provide mitigation for existing stormwater flows and not as a requirement of any new development or redevelopment action that requires compliance with the SWMM, the low impact improvement must be approved by the control authority prior to construction, the applicant shall obtain proper permits if applicable, the design shall be reviewed and accepted by the control authority prior to construction,



the applicant shall notify and allow the control authority to inspect the low impact improvement during and after construction, and the low impact improvement shall comply with the applicable BMPs and requirements of the SWMM or the approved plans.

3. The owner shall develop an O&M manual for the low impact improvement, be responsible for all costs of construction and proper operation and maintenance of such low impact improvement, and shall submit annual maintenance reports to the control authority.

4. The owner shall enter into a covenant and easement agreement with the City to assure proper operation and maintenance of the low impact improvement and allow the City access for inspection. The covenant and easement agreement shall be recorded with the Pierce County Auditor's Office to the title of the property by the City and be in a form and content approved by the City Attorney.

B. The control authority may inspect all low impact improvement and stormwater systems approved or sought to be approved under this section to ascertain that they have been installed in accordance with the approved documents and function properly. If at any time such low impact improvement or stormwater system fails to function as designed as determined by the control authority based on appropriate engineering standards, or if the owner fails to submit the annual maintenance reports, the control authority may reduce or revoke any rate reduction granted to reflect the effectiveness, if any, of such low impact improvement or stormwater system, or the control authority may revoke approval of the low impact improvement or stormwater system irrespective of its prior approval of either the low impact improvement or stormwater system or plans therefor.

C. The stormwater rate reduction allowed under this section shall be as follows:

1. Use of low impact development BMPs as designated in the SWMM for partial mitigation of stormwater impacts from the site, defined as in this chapter, shall qualify the parcel to receive a one basic category of development rate reduction.

2. Use of low impact development BMPs as designated in the SWMM for full mitigation of stormwater impacts from the site, defined as mitigation of all surfaces and disturbed areas to the maximum amount practicable, shall receive a two basic categories of development rate reduction.

3. Notwithstanding any rate reduction authorized, permitted, or provided for in this section, no rate shall be reduced below the basic category of development for undeveloped land.

#### **12.08D.260 Payment In-Lieu-Of Construction Program.**

##### A. Purpose.

This section establishes the Payment In-Lieu-Of Construction Program ("Program"). Application for the Program is voluntary and not mandatory. This Program shall be available for qualified new development and redevelopment projects required to mitigate for stormwater impacts per Minimum Requirement #6 – Stormwater Treatment, or Minimum Requirement #7 – Flow Control, as defined in the SWMM. Property owners, or persons authorized to act on their behalf, may apply to the control authority under this Program to pay a system development charge in-lieu-of constructing stormwater treatment and/or flow control best management practices on the project site. Mitigation capacity will be allocated to qualifying benefitted premises under this Program. A system development charge will be assessed to reimburse the City for the historic capital costs to construct or expand regional stormwater facilities to provide mitigation capacity for projects approved under the Program. A maintenance surcharge may also be applicable to offset the additional maintenance costs resulting from the new or expanded regional stormwater facilities benefitting such properties.

All applications for the Program must be reviewed and approved by the control authority.

##### B. Voluntary Payment Agreement.

A voluntary payment agreement signed by the City and applicant is required for participation in this Program.

##### C. System Development Charge.

An applicant qualified under this Program shall be assessed a system development charge as established by ordinance or resolution of the City Council. The system development charges are different for each regional stormwater facility in the Program or group of facilities. The methodology for calculation of the system



development charge is defined in the City of Tacoma regional stormwater facility plan and is based on the present worth of capital costs for each facility.

#### D. Calculation; Payment.

The amount of surface area requiring stormwater mitigation will be calculated based upon the proposed project as approved with a City construction permit. An applicant cannot pay for and reserve mitigation capacity within a regional stormwater facility for potential future mitigation needs. Each system development charge assessed shall be paid to the City at the time of construction permit issuance.

#### E. Maintenance Surcharge.

A maintenance surcharge may be assessed upon the benefitted premises in addition to the surface water rate or fee. The maintenance surcharge is intended to equitably recover the maintenance costs associated with the regional stormwater facility.

The maintenance surcharge will be calculated by multiplying the total maintenance costs for the regional facility by the percentage of total mitigation capacity of the regional facility allocated to the benefitted parcel. The maintenance surcharge for each regional stormwater facility included in the Program shall be established by ordinance or resolution of the City Council.

#### F. Qualification.

In order to qualify for the Program outlined under this section:

1. The applicant shall submit a completed Program application, on forms provided by the control authority, prior to final approval of construction permits for the proposed project;

2. The proposed project must be considered a new development or redevelopment project, as those terms are defined in the SWMM;

3. The proposed project must be located in an area defined by the City of Tacoma regional stormwater facility plan and the regional stormwater facility specific ordinance;

4. The control authority must determine that the regional stormwater facility has mitigation capacity available for the proposed project;

5. Projects shall comply with all applicable portions of the SWMM and City of Tacoma regional stormwater facility plan;

6. The applicant shall provide all information requested by the City that is reasonably related to qualification for the program; and

7. The property owner shall execute a voluntary payment agreement with the City, in a form approved by the control authority and the City Attorney. The benefitted premises shall be designated in the voluntary payment agreement.

The covenants set forth in the voluntary payment agreement shall, upon recording with the Pierce County Auditor, or successor, be credited to and considered as a benefit to the benefitted premises running with the land; provided that, the City's covenants shall not apply to additional stormwater mitigation required for redevelopment or new development of any portion of the benefitted premises. It shall be the responsibility of the applicant to timely record the voluntary payment agreement as provided herein and submit a copy of the recorded agreement to the control authority. The City shall maintain a copy of the agreement in the City's permanent records. Projects where the benefitted premises is a right-of-way may not be required to record the agreement.

### **12.08D.270 Organized drainage or drainage improvement districts.**

Any organized drainage or drainage improvement district in existence on April 1, 1979, the boundary of which is wholly or partly within the boundary of the City on that date, may seek relief from City stormwater rates and fees to the extent that it can prove to the satisfaction of the control authority that such district provides stormwater management services within the boundary of the City. Nothing herein shall expressly or by implication constitute City or City Council approval or ratification of, or agreement or consent to, any act, undertaking, or omission by any such district.

## **RIGHT OF ENTRY AND CONFIDENTIALITY**

### **12.08D.300 Right of entry.**

In addition to any other authority granted herein, whenever the control authority has reasonable cause to believe that a violation of this chapter has occurred, or is occurring, in, on, or upon a building, premises, or real property, or has a reasonable basis to inspect stormwater facilities and BMPs in, on, or upon a building, premises, or real property to ensure they are functioning or maintained as designed, have been installed in accordance with approved documents, or to ensure compliance with the municipal stormwater permit or this chapter, authorized representatives of the control authority bearing proper credentials and identification may, with the consent of the owner or occupant of such building, premises, or real property, enter into, on, or upon the same at all reasonable times to conduct inspections and gather samples for such purposes. Reasonable times means normal business hours, or other times if the control authority has a reason to believe that stormwater discharges from a building, premises, or real property to the municipal stormwater system are causing or contributing to a violation of this chapter that requires an immediate response by the control authority to protect property, human health, the municipal stormwater system, or receiving waters.

### **12.08D.310 Confidential information.**

A. The disclosure of public records maintained under this chapter shall be governed by the provisions of Chapter 42.56 RCW. Financial, commercial, and proprietary information submitted by a person, which identifies it as confidential, may be exempt from public disclosure pursuant to the provisions of Chapter 42.56 RCW.

## ENFORCEMENT REMEDIES

### 12.08D.400 Violations and enforcement.

#### A. Enforcement.

The provisions of this chapter, together with any standards, requirements, manuals, and procedures promulgated under authority of this chapter or otherwise made subject to enforcement under this chapter, and all terms and conditions of any permit, authorization, control mechanism, directive, or compliance order issued under authority of this chapter, are subject to enforcement pursuant to and under authority of TMC Chapter 1.82, the Uniform Enforcement Code. The control authority is authorized to exercise all powers and authority granted pursuant to TMC Chapter 1.82, including by way of example and not limitation, the power to issue compliance orders, corrective action notices, and notices of violation, assess monetary penalties, approve voluntary correction agreements, and develop, promulgate, revise, and implement policies and procedures governing enforcement actions under TMC Chapter 1.82 and 12.08A. The Director is empowered to delegate enforcement authority under TMC 1.82 and 12.08A to such persons as may be determined by the Director. Any such power and authority authorized pursuant to TMC Chapter 1.82 is in addition to the power and authority granted pursuant to TMC Chapter 12.08A and any other applicable state or federal law or regulation.

#### B. Monetary penalties.

The maximum monetary penalty that may be assessed for each violation per day or portion thereof, and each continuing day or portion thereof, shall not exceed \$10,000. The maximum monetary penalties set forth at TMC 1.82.050.F are not applicable to violations of this Chapter. Monetary penalties shall be assessed in accordance with the most current version of the Stormwater Compliance Policy as promulgated by the Director pursuant to Chapter 12.08A TMC.

#### C. Compliance mandatory.

Compliance with the requirements of this chapter is mandatory except as may be otherwise provided in this chapter. Except as otherwise provided herein, any act or omission by a responsible person in noncompliance with any duty, requirement, or obligation set forth in this chapter, or in any standard, regulation, manual, or procedure promulgated under authority of this chapter or otherwise made subject to enforcement under this chapter, or set forth in a term or condition of any permit, control mechanism, directive, or compliance order issued under authority of this chapter, shall constitute a violation of this chapter and is subject to enforcement by the control authority.

#### D. Violations.

Violations of this chapter may include, by way of example, but are not limited to the following acts or omissions:

1. Discharging stormwater contaminated with any of the substances prohibited under TMC 12.08D.110;
2. Failure to obtain any permit or authorization required by this chapter;
3. Failure to comply with any of the City's stormwater program requirements in TMC 12.08D.150, including, but not limited to applicable best management practices;
4. Misrepresenting, or intentionally failing to disclose, all relevant facts in a permit application, report, or other submittal required under this chapter;
5. Falsifying self-monitoring reports;
6. Tampering with monitoring equipment;
7. Unpermitted alterations to stormwater discharges that cause damage to any personal or real property, public health, or the environment;
8. The construction, use, maintenance, or continued existence of an illicit connection to the municipal stormwater system;
9. Unreasonably interfering with the control authority's access and inspection authority; and
10. Violating any provision of this chapter, including the terms of a permit, order, authorization, or other control mechanism issued under the authority of this chapter.

E. Written instruments.

Any person who shall knowingly and falsely make, complete, or alter a written instrument required to be submitted to the control authority pursuant to this chapter, or regulation, or procedure promulgated under this chapter, or a term or condition of any permit, control mechanism, directive, or compliance order issued under authority of this chapter, shall be guilty of a gross misdemeanor and subject to a fine of not more than \$5,000 or by imprisonment in jail for up to three hundred sixty-five (365) days, or both. Proof of intent to defraud or injure is not required.

F. Supplemental Charges.

Responsible persons whose act or omission or participation in an act or omission, whether inside or outside the City, creates, causes, or allows a pollutant to be discharged into the municipal stormwater system in violation of this chapter, shall be liable to pay any supplemental charges the control authority incurs to respond to such violation. Any supplemental charges assessed shall become due and payable to the control authority within 30 days of receipt of such assessment. Persons wishing to appeal their assessment of supplemental charges may do so in accordance with TMC Chapter 12.08A.140. If supplemental charges are appealed and affirmed in whole or in part, such affirmed charges shall become due and payable within 30 calendar days of receipt of a final decision by the Hearing Examiner or a court. The control authority may pursue collection of non-payment of supplemental charges by any lawful means authorized, including referral to a collection agency. Assessment of supplemental charges shall be in addition to:

1. Any enforcement action authorized by this chapter to address a violation of TMC Chapter 12.08D;
2. Any cost recovery remedy available to the control authority under state and federal environmental laws and regulations; and
3. Any other remedy available at law or in equity to address a violation of TMC Chapter 12.08D.

G. Policies and procedures governing enforcement of violations of this chapter and assessment of monetary penalties are set forth in the Environmental Services Stormwater Compliance Policy. The Environmental Services Stormwater Compliance Policy, and all amendments thereto, shall be promulgated by the Director or Director's designee, a copy of which shall be made available to the public pursuant to such requirements and procedures as are issued by the Director pursuant to TMC Chapter 12.08A to ensure public notice.

H. Any responsible person who willfully violates any provision of this chapter, or any permit, order, control mechanism, or other written authorization or directive issued by the City thereunder shall, upon conviction, be guilty of a gross misdemeanor punishable by a fine of not more than \$10,000, or by imprisonment in jail for up to three hundred sixty-five (365) days, or both. Each day upon which a willful violation of this chapter, or any permit, order, control mechanism, or other written authorization or directive issued by the control authority thereunder occurs may be deemed a separate and additional violation.

I. The enforcement actions and authority authorized in this chapter are not exclusive and are supplemental to the enforcement actions and authority that may be available, or at law or in equity, which may include, but are not limited to, revoking, suspending, modifying, or terminating a user's connection or discharge to the municipal stormwater system or receiving water within the City of Tacoma, if the City so chooses, or seeking injunctive relief. Enforcement of violations will generally be in accordance with TMC Chapter 1.82 and the Environmental Services Stormwater Compliance Policy.

**12.08D.410 Suspension of service or discharge.**

A. Suspension of Service or Discharge - Emergency.

In addition to any other authority set forth in this chapter, the control authority may, pursuant to a stop-use order, immediately suspend special approved stormwater discharges or other stormwater discharges to the municipal stormwater system or other stormwater BMP/facility regulated under this chapter, whenever the control authority has reasonable cause to believe that an actual or threatened discharge, or other violation of this chapter, either:

1. Presents an imminent threat or substantial danger to the health or welfare of persons or the environment; or
2. Presents an imminent threat to, or does interfere with, the operation of the municipal stormwater system or other stormwater BMP/facility regulated under this chapter.

Depending on the emergent circumstances, the control authority may provide either verbal or written notice to suspend an actual or threatened discharge.

B. Suspension of Service – Other Violations.

The control authority may, pursuant to a stop-use order, suspend special approved stormwater discharges or other stormwater discharges to the municipal stormwater system or other stormwater BMP/facility regulated under this chapter, where a discharge has been made in violation of this chapter, the municipal stormwater permit, or any authorization, control mechanism, directive, or compliance order issued under authority of this chapter.

C. Suspension of Service – Access.

Unreasonable refusal to allow control authority representatives to access a premises pursuant to TMC 12.08D.300 (Right of entry) to determine compliance with this chapter may, pursuant to a stop-use order, result in the suspension of special approved stormwater discharges or other stormwater discharges at a premises.

D. The responsible person receiving a notice to suspend its discharge shall suspend discharging in accordance with the requirements contained in the notice. If the responsible person fails to immediately comply with the terms of a notice to suspend an actual or threatened discharge, the control authority may take steps it deems reasonably necessary to protect the health and welfare of persons, the environment, or the municipal stormwater system or other stormwater BMP/facility. As a condition of allowing discharges to recommence, the control authority may require the responsible person to submit a written statement describing the corrective action it has implemented to prevent discharges that presented an imminent danger or threat to the health and welfare of persons or the environment, or threaten to interfere with the operation of the municipal stormwater system.

**12.08D.420 Unauthorized connection – misdemeanor.**

It is unlawful to make or cause to be made or to maintain any connection with the municipal stormwater system, or with any stormwater BMP/facility that is connected directly or indirectly with the municipal stormwater system, without written authorization from the control authority. Violation is a misdemeanor punishable by a fine of not more than \$1,000, or by imprisonment in jail for not more than 90 days, or by both such fine and imprisonment.

**MISCELLANEOUS PROVISIONS**

**12.08D.500 Environmental services conservation loan program.**

Conservation loans for stormwater are governed by TMC 12.08A.120.

**12.08D.510 Utility reimbursement agreements; stormwater utility improvements.**

Utility Reimbursement Agreements for stormwater are governed by TMC 12.08A.130.